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LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th March, 1960:—

*BILL NO. 13 OF 1960

a bill to provide for the reorganisation of the State of Bombay and for matters connected therewith.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

PART I

PRELIMINARY

- 5 1. This Act may be called the Bombay Reorganisation Act, 1960. Short title.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) "appointed day" means the 1st day of May, 1960;
- (b) "article" means an article of the Constitution;
- (c) "assembly constituency", "council constituency" and
10 "parliamentary constituency" have the same meanings as in the
Representation of the People Act, 1950;
- (d) "law" includes any enactment, ordinance, regulation,
order, bye-law, rule, scheme, notification or other instrument
having, immediately before the appointed day, the force of law
15 in the whole or in any part of the State of Bombay;
- (e) "notified order" means an order published in the Official
Gazette;
- (f) "population ratio", in relation to the States of Bombay
and Gujarat, means the ratio of 66·31 to 33·69;

*The President has, in pursuance of article 2, clauses (1) and (3) of article 117 and clause (1) of article 271 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

(g) "sitting member", in relation to either House of Parliament or of the Legislature of the State of Bombay, means a person who, immediately before the appointed day, is a member of that House;

(h) "transferred territory" means the territories which, as from the appointed day, are the territories of the State of Gujarat;

(i) "treasury" includes a sub-treasury;

(j) any reference to a district, taluka, village or other territorial division of the State of Bombay shall be construed as a reference to the area comprised within that territorial division as recognised for land revenue purposes on the 1st day of December, 1959.

PART II

REORGANISATION OF BOMBAY STATE

Formation
of Gujarat
State.

3. (1) As from the appointed day, there shall be formed a new State to be known as the State of Gujarat comprising the following territories of the State of Bombay, namely:—

(a) Banaskantha, Mehsana, Sabarkantha, Ahmedabad, Kaira, Panch-mahals, Baroda, Broach, Surat, Dangs, Amreli, Surendranagar, Rajkot, Jamnagar, Junagadh, Bhavnagar and Kutch districts; and

(b) the villages in Umbergaon taluka of Thana district, the villages in Nawapur and Nandurbar talukas of West Khandesh district and the villages in Akkalkuwa and Taloda talukas of West Khandesh district, respectively specified in Parts I, II and III of the First Schedule;

and thereupon, the said territories shall cease to form part of the State of Bombay.

(2) The villages in Umbergaon taluka specified in Part I of the First Schedule shall form a separate taluka of the same name and be included in Surat district, and the remaining villages in the said taluka shall be included in, and form part of, Dahanu taluka of Thana district; and the villages specified in Parts II and III of the First Schedule shall respectively be included in, and form part of, Songadh taluka of Surat district and Sagbara taluka of Broach district.

Amendment
of the First
Schedule to
the Constitution.

4. As from the appointed day, in the First Schedule to the Constitution, under the heading "1. THE STATES",—

(a) for entry 4, the following entries shall be substituted, namely:—

"4. Bombay. The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956, but ex-

cluding the territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.

5. Gujarat..The territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.”;

5 (b) entries 5 to 14 shall be renumbered as entries 6 to 15 respectively.

5. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the State Government to alter, after the appointed day, the name, extent or boundaries of any district, taluka or village in the State. Saving powers of State Government.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

6. As from the appointed day, the number of seats allotted to the State of Bombay in the Council of States shall be reduced from 27 to 18, and there shall be allotted 11 seats to the State of Gujarat in the said Council, and in the Fourth Schedule to the Constitution, in the Table,— Amendment of the Fourth Schedule to the Constitution.

(a) for entry 4, the following entries shall be substituted. Saving powers of State Government.

20 namely:—
“4. Bombay . . 18
5. Gujarat . . 11”;

(b) entries 5 to 18 shall be renumbered as entries 6 to 19 respectively; and

25 (c) for the figures “221”, the figures “223” shall be substituted.

7. (1) The twelve sitting members of the Council of States representing the State of Bombay, whose names are specified in Part I of the Second Schedule, and such six of the nine members elected to represent that State at the biennial elections held for the purpose of filling the vacancies existing on the 3rd day of April, 1960, as the Chairman of the Council of States shall by order specify shall, as from the appointed day, be deemed to have been duly elected to fill the eighteen seats allotted to the State of Bombay. Allocation of sitting members.

35 (2) The five sitting members of the Council of States representing the State of Bombay, whose names are specified in Part II of the Second Schedule, and the remaining three of the nine members elected at the said biennial elections shall, as from the appointed day, be deemed to have been duly elected to fill eight of the eleven seats allotted to the States of Gujarat.

Bye-elections to fill vacancies. 8. As soon as may be after the appointed day, bye-elections shall be held to fill the existing casual vacancy in the seats allotted to the State of Gujarat and the two additional seats allotted to that State.

Term of office. 9. (1) The term of office of the sitting members and of the member chosen to fill the casual vacancy shall remain unaltered. 5

(2) Out of the two members elected to fill the two additional seats, the term of office of that member who, at the counting of votes, is last declared elected, or if an equality of votes is found to exist, the term of office of such one of them as the returning officer shall decide by lot, shall expire on the 2nd day of April, 1964 and the term of office of the other member shall expire on the 2nd day of April, 1966. 10

The House of the People

Representation in the House of the People. 10. As from the appointed day, the number of seats allotted in the House of the People to the State of Bombay shall be reduced from 66 to 44, and there shall be allotted 22 seats to the State of Gujarat in that House, and in the First Schedule to the Representation of the People Act, 1950— 15

43 of 1950.

(a) for entry 4, the following entries shall be substituted, namely:—

“4. Bombay 44 20

5. Gujarat 22”; and

(b) entries 5 to 22 shall be renumbered as entries 6 to 23 respectively.

Delimitation of Parliamentary Constituencies. 11. As from the appointed day, the First Schedule to the Delimitation of Parliamentary and Assembly Constituencies Order, 1956, shall stand amended as directed in the Third Schedule to this Act. 25

Provision as to sitting members. 12. Every sitting member of the House of the People representing a constituency the extent of which is altered by virtue of the provisions of section 11 shall be deemed to have been elected to the House of the People by that constituency as so altered. 30

The Legislative Assemblies

Strength of Legislative Assemblies. 13. As from the appointed day, the total number of seats to be filled by persons chosen by direct election in the Legislative Assembly of Bombay shall be reduced from 396 to 264, and the total number of such seats in the Legislative Assembly of Gujarat shall be 132, and in the Second Schedule to the Representation of the People Act, 1950— 35

43 of 1950.

(a) for entry 4, the following entries shall be substituted, namely:—

“4. Bombay 264 40

5. Gujarat 132”; and

(b) entries 5 to 13 shall be renumbered as entries 6 to 14 respectively.

14. As from the appointed day, the Second Schedule to the Delimitation of Parliamentary and Assembly Constituencies Order, 1956, shall stand amended as directed in the Fourth Schedule to this Act.

Delimitation of assembly constituencies.

15. (1) Every sitting member of the Legislative Assembly of Bombay representing a constituency which on the appointed day by virtue of the provisions of section 14 stands transferred, whether with or without alteration of boundaries, to the State of Gujarat shall, as from that day, cease to be a member of the Legislative Assembly of Bombay and shall be deemed to have been elected to the Legislative Assembly of Gujarat by that constituency as so transferred.

Allocation of members.

15 (2) Every other sitting member of the Legislative Assembly of Bombay representing a constituency the extent or the name and extent of which is altered by virtue of the provisions of section 14 shall be deemed to have been elected to the said Legislative Assembly by that constituency as so altered.

20 (3) The sitting member of the Legislative Assembly of Bombay nominated to that Assembly under article 333 to represent the Anglo-Indian community shall, notwithstanding the diminution in the area of that State, continue to represent the said community in that Assembly under that article.

25 16. The period of five years referred to in clause (1) of article 172 of the Constitution shall, in the case of the Legislative Assembly of Gujarat, be deemed to have commenced on the date on which it actually commenced in the case of the Legislative Assembly of Bombay.

Duration of Legislative Assemblies.

30 17. (1) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of Bombay shall continue to be the Speaker and Deputy Speaker respectively of that Assembly.

Speakers and Deputy Speakers.

35 (2) As soon as may be after the appointed day, the Legislative Assembly of Gujarat shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

40 18. The rules as to procedure and conduct of business in force immediately before the appointed day with respect to the Legislative Assembly of Bombay shall, until rules are made under clause (1) of

Rules of Procedure.

article 208, have effect in relation to the Legislative Assembly of Gujarat, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

The Legislative Council

Legislative Council of Bombay. 19. As from the appointed day, the total number of seats in the Legislative Council of Bombay shall be reduced from 108 to 78, and in the Third Schedule to the Representation of the People Act, 1950, ^{43 of 1950.} for the entry relating to Bombay, the following entry shall be substituted, namely:—

"3. Bombay. 78 22 7 7 30 12".

Council constituencies. 20. As from the appointed day, the Delimitation of Council Constituencies (Bombay) Order, 1951 shall stand amended as directed in the Fifth Schedule.

Provision as to certain sitting members. 21. On the appointed day, the sitting members of the Legislative Council of Bombay specified in the Sixth Schedule shall cease to be members of that Council.

Special provision as to biennial elections. 22. (1) Notwithstanding anything contained in section 16 of the Representation of the People Act, 1951, no notification under ^{43 of 1951.} that section shall be published before the appointed day for holding biennial elections to fill the seats of members of the Legislative Council of Bombay, retiring on the expiration of their term of office on the 24th day of April, 1960.

(2) The term of office of the members of the said Council elected to fill the vacancies at the said biennial elections shall expire on the 24th day of April, 1966.

Chairman and Deputy Chairman. 23. (1) The person who immediately before the appointed day is the Deputy Chairman of the Legislative Council of Bombay shall continue to be the Deputy Chairman of that Council.

(2) As soon as may be after the appointed day, the Legislative Council of Bombay shall choose one member of that Council to be the Chairman thereof.

Scheduled Castes and Scheduled Tribes

Amendment of the Scheduled Castes Order. 24. As from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the Seventh Schedule.

Amendment of the Scheduled Tribes Order. 25. As from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Eighth Schedule.

PART IV

HIGH COURTS

26. (1) As from the appointed day, there shall be a separate High Court for the State of Gujarat (hereinafter referred to as "the High Court of Gujarat"). High Court for Gujarat.

(2) The principal seat of the High Court of Gujarat shall be at such place as the President may, by notified order, appoint.

(3) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Gujarat may sit at such other place or places in the State of Gujarat other than its principal seat as the Chief Justice may, with the approval of the Governor of Gujarat, appoint.

27. (1) Such of the Judges of the High Court of Bombay holding office immediately before the appointed day as may be determined by the President shall on that day cease to be Judges of the High Court of Bombay and become Judges of the High Court of Gujarat. Judges of Gujarat High Court.

(2) The persons who by virtue of sub-section (1) become Judges of the High Court of Gujarat shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the priority of their respective appointments as Judges of the High Court of Bombay.

28. The High Court of Gujarat shall have, in respect of any part of the territories included in the State of Gujarat, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of that part of the said territories by the High Court of Bombay. Jurisdiction of Gujarat High Court.

29. (1) The High Court of Gujarat shall have the like powers to approve, admit, enrol, remove and suspend advocates and attorneys, and to make rules with respect to advocates and attorneys, as are, under the law in force immediately before the appointed day, exercisable by the High Court of Bombay. Power to enrol advocates etc.

(2) The right of audience in the High Court of Gujarat shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court of Bombay:

Provided that, subject to any rule made or direction given by the High Court of Gujarat in exercise of the powers conferred by this section, any person who immediately before the appointed day is an advocate entitled to practise, or an attorney entitled to act, in the

High Court of Bombay shall be recognised as an advocate or an attorney entitled to practise or to act, as the case may be, in the High Court of Gujarat.

Practice and
procedure
in Gujarat
High Court.

30. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Bombay shall, with the necessary modifications, apply in relation to the High Court of Gujarat, and accordingly, the High Court of Gujarat shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court of Bombay: 5 10

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court of Bombay shall, until varied or revoked by rules or orders made by the High Court of Gujarat, apply with the necessary modifications in relation to practice and procedure in the High Court of Gujarat as if made by that Court. 15

Custody of
seal of Guja-
rat High
Court.

31. The law in force immediately before the appointed day with respect to the custody of the seal of the High Court of Bombay shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Gujarat. 20

Form of
writs and
other pro-
cesses.

32. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Bombay shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Gujarat. 25

Powers of
Judges.

33. The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and division courts of the High Court of Bombay and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Gujarat. 30

Procedure
as to appeals
to Supreme
Court.

34. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Bombay and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Court of Gujarat. 35

Transfer of
proceedings
from Bom-
bay High
Court to
Gujarat
High Court.

35. (1) Except as hereinafter provided, the High Court of Bombay shall, as from the appointed day, have no jurisdiction in respect of the transferred territory.

(2) Such proceedings pending in the High Court of Bombay immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court,

having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Gujarat shall, as soon as may be after such certification, be transferred to the High Court of Gujarat.

5 (3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in section 28, but save as hereinafter provided, the High Court of Bombay shall have, and the High Court of Gujarat shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications
10 for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court of Bombay before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court of Bombay, it appears to the Chief Justice of that
15 High Court that they ought to be transferred to the High Court of Gujarat, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(4) Any order made by the High Court of Bombay—

(a) before the appointed day, in any proceedings trans-
20 ferred to the High Court of Gujarat by virtue of sub-section (2), or

(b) in any proceedings with respect to which the High Court of Bombay retains jurisdiction by virtue of sub-section (3),

25 shall for all purposes have effect, not only as an order of the High Court of Bombay, but also as an order made by the High Court of Gujarat.

36. Any person, who, immediately before the appointed day, is an advocate entitled to practise, or an attorney entitled to act, in
30 the High Court of Bombay and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Gujarat under section 35, shall have the right to appear or to act, as the case may be, in the High Court of Gujarat in relation to those proceedings.

35 37. For the purposes of section 35—

(a) proceedings shall be deemed to be pending in a court
until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, peti-
40 tions for revision and petitions for writs;

Interpreta-
tion.

Right to
appear or
to act in
proceedings
transferred
to Gujarat
High Court.

(b) references to a High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge. 5

Savings.

38. Nothing in this Part shall affect the application to the High Court of Gujarat of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision. 10

PART V

AUTHORISATION OF EXPENDITURE

Authorisation of expenditure of Gujarat State.

39. The Governor of Bombay may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Gujarat as he deems necessary for a period of not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislature of the State of Gujarat: 15

Provided that the Governor of Gujarat may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Gujarat for any period not extending beyond the said period of six months. 20

Reports relating to accounts of Bombay State.

40. (1) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the State of Bombay in respect of any period prior to the appointed day shall be submitted to the Governor of each of the States of Bombay and Gujarat who shall cause them to be laid before the Legislature of the State. 25

(2) The President may by order—

(a) declare any expenditure incurred out of the Consolidated Fund of Bombay on any service in respect of any period prior to the appointed day during the financial year 1960-61 or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised, and 35

(b) provide for any action to be taken on any matter arising out of the said reports.

Allowances and privileges of Governor of Gujarat.

41. The allowances and privileges of the Governor of Gujarat shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158, be such as the President may, by order, determine. 40

55 of 1957. 42. (1) Section 3 of the Union Duties of Excise (Distribution) Act, 1957, sections 3 and 5 of the Estate Duty and Tax on Railway
57 of 1957. Passenger Fares (Distribution) Act, 1957, section 4 of and the Second
58 of 1957. 5 portance) Act, 1957, and paragraph 3 of the Constitution (Distri-
bution of Revenues) No. 2 Order, 1957, shall have effect subject to
such modifications as are specified in the Ninth Schedule.

Distribution
of revenues.

(2) The total amount payable to the State of Bombay under
the enactments and Order referred to in sub-section (1) in respect
10 of the part of the financial year 1960-61 beginning with the appointed
day and the financial year 1961-62 shall be reduced by a sum of 602
lakhs of rupees and 614 lakhs of rupees, respectively and the total
amount payable to the State of Gujarat under those enactments and
Order in respect of each of those periods shall be correspondingly
15 increased.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

43. The provisions of this Part shall apply in relation to the Application
apportionment of the assets and liabilities of the State of Bombay of Part.
20 immediately before the appointed day.

44. (1) Subject to the other provisions of this Part, all land and Land and
all stores, articles and other goods belonging to the State of Bombay goods.
shall,—

(a) if within the transferred territory, pass to the State of
25 Gujarat; or

(b) in any other case, remain the property of the State of
Bombay:

Provided that where the Central Government is of opinion that
any goods or class of goods should be distributed otherwise than
30 according to the situation of the goods, the Central Government
may issue such directions as it thinks fit for a just and equitable
distribution of the goods and the goods shall remain the property
of the State of Bombay or, as the case may be, pass to the State of
Gujarat, accordingly.

35 (2) Any such stores of the State of Bombay as are referred to
in the Tenth Schedule shall be divided between the States of
Bombay and Gujarat in the manner specified therein.

(3) In this section, the expression "land" includes immovable
property of every kind and any rights in or over such property, and
40 the expression "goods" does not include coins, bank notes and cur-
rency notes.

Treasury
and bank
balances.

45. The total of the cash balances in all treasuries of the State of Bombay and the credit balances of that State with the Reserve Bank of India, the State Bank of India and the State Bank of Saurashtra immediately before the appointed day shall be divided between the States of Bombay and Gujarat according to the population ratio: 5

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the two States in the books of the Reserve Bank of India 10 on the appointed day:

Provided further that if the State of Gujarat has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by 15 order, direct.

Arrears of
taxes.

46. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the State in which the property is situated, and the right to recover arrears of any other tax or duty shall belong to the State in whose territories the place of assessment of that tax or duty is included on the appointed 20 day:

Provided that any sum recovered after the appointed day in respect of any arrears of tax accruing during the period between the 1st day of January, 1960, and the 30th day of April, 1960 (both days inclusive) under the Central Sales Tax Act, 1956, or the 25 Bombay Sales Tax Act, 1959, shall, after deducting the cost of collection thereof, be divided between the States of Bombay and Gujarat according to the population ratio. 74 of 1956.
Bom. Act LI
of 1959.

Right to
recover loans
and advances.

47. (1) The right of the State of Bombay to recover any loans or advances made before the appointed day to any local body, 30 society, agriculturist or other person in an area within that State shall belong to the State in which that area is included on that day.

(2) The right of the State of Bombay to recover any loans or advances made before the appointed day to any person or institution outside that State shall continue to belong to the State of 35 Bombay:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Bombay and Gujarat according to the population ratio.

48. (1) Out of the investments of the State of Bombay made before the appointed day in the cash balance investment account of the State, such securities of the value of ten crores of rupees, as the Central Government may by order specify, shall pass to the State of Gujarat in connection with the construction of a capital for that State; and the remaining investments in the said account shall be divided between the States of Bombay and Gujarat according to the population ratio.

Credits in certain funds.

(2) The investments of the State of Bombay immediately before the appointed day in the State Famine Relief Fund, the State Road Fund, the Fund for Development Schemes, the Insurance Fund, the Bombay State Milk Fund, the Securities Adjustment Reserve Fund and any other general fund and the sums at the credit of that State in the Central Road Fund shall be divided between the States of Bombay and Gujarat according to the population ratio.

(3) The investments of the State of Bombay immediately before the appointed day in the Dangs District Reserve Fund, the Port Reserve Fund, the Port Development Fund and the Anand Institute Fund shall pass to the State of Gujarat and the investments in any other special fund the objects of which are confined to a local area shall belong to the State in which that area is included on the appointed day.

(4) The investments of the State of Bombay immediately before the appointed day in any private commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the cash balance investment account, shall pass to the State in which the principal seat of business of the undertaking is located.

(5) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the State of Bombay or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the State of Bombay made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Bombay and Gujarat in the same proportion in which the assets of the body corporate are divided under the provisions of Part VII.

49. (1) Out of the investments in the cash balance investment account which remain with the State of Bombay after giving effect to the provisions of section 48, such securities of the value of 1420 lakhs of rupees as the Central Government may by order specify shall stand transferred to the State of Gujarat.

Special Revenue Reserve Fund in Gujarat.

(2) There shall be constituted in the State of Gujarat a Fund to be called the Special Revenue Reserve Fund consisting of the securities transferred to that State under sub-section (1) and such other securities belonging to the State of Gujarat of the value of 1,419 lakhs of rupees as the Central Government may by order specify. 5

(3) From and out of the fund constituted under sub-section (2), there shall be transferred as receipts in the revenue account of the State of Gujarat in each of the financial years specified in column 1 of the following Table a sum set out against that year in column 2 thereof, and in the financial year 1969-70, the balance, if any, remaining in that fund:—

TABLE

<i>Financial year</i>	<i>Amount in lakhs of rupees.</i>	
(1)	(2)	15
1962-63	612	
1963-64	585	
1964-65	561	
1965-66	526	
1966-67	433	20
1967-68	340	
1968-69	209	

Assets and Liabilities of State undertakings. 50. (1) The assets and liabilities relating to any commercial or industrial undertaking of the State of Bombay shall pass to the State in which the undertaking is located. 25

(2) Where a depreciation reserve fund is maintained by the State of Bombay for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

Public debt. 51. (1) The public debt of the State of Bombay attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall, as from that day, continue to be the debt of the State of Bombay: 30

Provided that—

(a) the State of Gujarat shall be liable to pay to the State of Bombay its share of the sums due from time to time for the servicing and repayment of the debt; and 35

(b) for the purpose of determining the said share, the debt shall be deemed to be divided between the States of Bombay and Gujarat as if it were a debt referred to in sub-section (2) or sub-section (3), as the case may be. 40

(2) The public debt of the State of Bombay attributable to loans taken from the Central Government, the National Co-operative Development and Warehousing Board or the Khadi and Village Industries Commission or from any other source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall,—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or

(b) if re-lent to the Bombay State Electricity Board, the Bombay State Road Transport Corporation, or the Bombay Housing Board or any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Bombay and Gujarat in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII.

(3) The remaining public debt of the State of Bombay attributable to loans taken from the Central Government, the Reserve Bank of India or any other body corporate and outstanding immediately before the appointed day shall be divided between the States of Bombay and Gujarat in proportion to the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred up to the appointed day in the territories included respectively in each of those States:

Provided that for the purposes of such division, only the expenditure on assets for which capital accounts have been kept shall be taken into account.

Explanation.—Where any expenditure on capital works or other capital outlays cannot be allocated between the territories included in the States of Bombay and Gujarat, such expenditure shall, for the purposes of this sub-section, be deemed to have been incurred in those territories according to the population ratio.

(4) Where a sinking fund or a depreciation fund is maintained by the State of Bombay for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the States of Bombay and Gujarat in the same proportion in which the total public debt is divided between the two States under this section.

Explanation.—For the purposes of this sub-section, the fund in the public account of the State of Bombay known as the Debt Redemption and Avoidance Fund shall be deemed to be a sinking fund.

(5) The share of the State of Gujarat in the liability on account of public debt apportioned under sub-section (3) shall be reduced by 1,419 lakhs of rupees and the share of the State of Bombay in such liability shall be correspondingly increased.

(6) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under, clause (2) of section 2 of the Public Debt Act, 1944.

18 of 1944.

Floating
Debt.

52. (1) The liability of the State of Bombay in respect of any floating debt of a Merged State shall be the liability of the State in whose territories the area of the Merged State is included on the appointed day.

(2) The liability of the State of Bombay in respect of any other floating loan to provide short-term finance to any commercial undertaking shall be the liability of the State in whose territories the undertaking is located.

Refund of
taxes collect-
ed in excess.

53. The liability of the State of Bombay to refund any tax or duty on property, including land revenue, collected in excess shall be the liability of the State in which the property is situated, and the liability of the State of Bombay to refund any other tax or duty collected in excess shall be the liability of the State in whose territories the place of assessment of that tax or duty is included:

Provided that the total amount refunded after the appointed day by the States of Bombay and Gujarat on account of any excess collected in respect of any tax accruing during the period between the 1st day of January, 1960, and the 30th day of April, 1960 (both days inclusive) under the Central Sales Tax Act, 1956 or the Bombay Sales Tax Act, 1959, shall, after deducting the cost of collection thereof, be apportioned between the two States according to the population ratio.

74 of 1956.
Bom. Act
LI of 1959.

Deposits,
etc.

54. (1) The liability of the State of Bombay in respect of any civil deposit or local fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.

(2) The liability of the State of Bombay in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment, under the terms thereof, are confined.

55. The liability of the State of Bombay in respect of the pro-
vident fund account of a Government servant in service on the
appointed day shall, as from that day, be the liability of the State
to which that Government servant is permanently allotted.

Provident
fund.

5 56. The liability of the State of Bombay in respect of pensions
shall pass to, or be apportioned between, the States of Bombay and
Gujarat in accordance with the provisions contained in the Eleventh
Schedule.

Pensions.

10 57. (1) Where, before the appointed day, the State of Bombay
has made any contract in the exercise of its executive power for
any purposes of the State, that contract shall be deemed to have
been made in the exercise of the executive power,—

15 (a) if such purposes are, as from that day, exclusively pur-
poses of either the State of Bombay or the State of Gujarat,
of that State; and

(b) in any other case, of the State of Bombay;

and all rights and liabilities which have accrued, or may accrue,
under any such contract shall, to the extent to which they would
have been rights or liabilities of the State of Bombay, be rights or
20 liabilities of the State of Bombay or the State of Gujarat, as the case
may be:

Provided that in any such case as is referred to in clause (b),
the initial allocation of rights and liabilities made by this sub-section
shall be subject to such financial adjustment as may be agreed upon
25 between the State of Bombay and the State of Gujarat or, in default
of such agreement, as the Central Government may by order direct.

(2) For the purposes of this section, there shall be deemed to
be included in the liabilities which have accrued or may accrue
under any contract—

30 (a) any liability to satisfy an order or award made by any
court or other tribunal in proceedings relating to the contract;
and

(b) any liability in respect of expenses incurred in or in
connection with any such proceedings.

35 (3) This section shall have effect subject to the other provisions
of this Part relating to the apportionment of liabilities in respect
of loans, guarantees and other financial obligations; and bank balan-
ces and securities shall, notwithstanding that they partake of the
nature of contractual rights, be dealt with under those provisions.

Liability in
respect of
actionable
wrong.

58. Where, immediately before the appointed day, the State of Bombay is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

(a) if the cause of action arose wholly within the territories which, as from that day, are the territories of the State of Bombay or the State of Gujarat, be a liability of that State; and

(b) in any other case, be initially a liability of the State of Bombay, but subject to such financial adjustment as may be agreed upon between the States of Bombay and Gujarat or, in default of such agreement, as the Central Government may by order direct.

Liability
as guarantor.

59. Where, immediately before the appointed day, the State of Bombay is liable as guarantor in respect of any liability of a registered cooperative society or other person, that liability shall,—

(a) if the area of operations of such society or person is limited to the territories which, as from that day, are the territories of the State of Bombay or of the State of Gujarat, be a liability of that State; and

(b) in any other case, be initially a liability of the State of Bombay, subject to such financial adjustment as may be agreed upon between the States of Bombay and Gujarat or, in default of such agreement, as the Central Government may by order direct.

Items in
suspense.

60. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

Residuary
provision.

61. The benefit or burden of any asset or liability of the State of Bombay not dealt with in the foregoing provisions of this Part shall pass to the State of Bombay in the first instance, subject to such financial adjustment as may be agreed upon between the States of Bombay and Gujarat before the 1st day of April, 1961 or, in default of such agreement, as the Central Government may by order direct.

Apportion-
ment of
assets or
liabilities
by agreement.

62. Where the States of Bombay and Gujarat agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

63. Where, by virtue of any of the provisions of this Part, any of the States of Bombay and Gujarat becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government, on a reference made within a period of three years from the appointed day by either of the States, is of opinion that it is just and equitable that that property or those benefits should be transferred to, or shared with, the other State or that a contribution towards that liability should be made by the other State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order determine.

Power of Central Government to order allocation or adjustment in certain cases.

64. All sums payable either by the State of Bombay or by the State of Gujarat to the other State or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

Certain expenditure to be charged on Consolidated Fund.

20

PART VII

PROVISIONS AS TO CERTAIN CORPORATIONS

65. (1) The following bodies corporate constituted for the State of Bombay, namely:—

Provisions as to Bombay State Electricity Board and State Warehousing Corporation.

54 of 1948. 25 (a) the State Electricity Board constituted under the Electricity Supply Act, 1948; and

28 of 1956. (b) the State Warehousing Corporation established under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956,

shall, as from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.

(3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on, the 1st day of October, 1960, or such earlier date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the State of Bombay and the State of Gujarat in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may by order determine. 10

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Bombay or, as the case may be, the Government of the State of Gujarat from constituting, at any time on or after the appointed day, a State Electricity Board or a State Warehousing Corporation for that State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (1),— 15

(a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State, and 20

(b) upon the dissolution of the existing Board or Corporation, any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State. 25

Continuance of arrangements in regard to generation and supply of electric power and supply of water. 66. If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement. 30 35 40

63 of 1951.

67. (1) The Bombay State Financial Corporation established under the State Financial Corporations Act, 1951 shall, as from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

Provisions
as to Bom-
bay State
Financial
Corporation.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Corporation shall include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

(3) A general meeting of the Corporation shall be convened, in accordance with the rules to be made in this behalf by the Central Government, by the Board thereof before the 31st day of July, 1960, or within such further time as the Central Government may allow, for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new corporations, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

(4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(5) If the scheme is not so approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court of Bombay as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the Corporations affected by the scheme as well as the shareholders and creditors thereof.

68. In the Road Transport Corporations Act, 1950, in section 47A,—

Amendment
of Act 64 of
1950.

(a) in sub-section (1),—

40

(i) for the words, letters and figures, "the whole or any part of a State in respect of which a Corporation was,

immediately before the 1st day of November, 1956," the words "or any other enactment relating to reorganisation of States, the whole or any part of a State in respect of which a Corporation was, immediately before the day on which the reorganisation takes place," shall be substituted; 5

(ii) in the *Explanation*, for clause (i), the following clause shall be substituted, namely:—

"(i) in relation to the Bombay State Road Transport Corporation, shall mean the Government of the State of Bombay or of Gujarat as formed under the 10 Bombay Reorganisation Act, 1960;"

(b) in sub-section (3), in clause (f), after the words and figures "the States Reorganisation Act, 1956", the words "or any other enactment relating to reorganisation of States" shall be inserted. 15

Special Pro-
vision for Bar
Council of
Gujarat.

69. (1) In the Indian Bar Councils Act, 1926,—

38 of 1926.

(a) in section 4,—

(i) to sub-section (2), the following *Explanation* shall be added, namely:—

"*Explanation*.—For the purpose of election to the 20 Bar Council for the High Court of Gujarat, the period of ten years aforesaid shall be computed after taking into account the period for which the person concerned was entitled as of right to practise in the High Court of Bombay before the 1st day of May, 1960." 25

(ii) for the proviso to sub-section (4), the following proviso shall be substituted, namely:—

"Provided that the Advocates-General of West Bengal, Madras, Bombay and Gujarat shall be Chairmen *ex-officio*, respectively, of the Bar Councils con- 30 stituted for the High Courts of those States.";

(b) after section 5, the following section shall be inserted, namely:—

"5A. Notwithstanding anything contained in this Act, the Chief Justice of the High Court of Gujarat shall nomi- 35 nate the members of the first Bar Council under this Act for the High Court of Gujarat and the members so nominated shall remain in office for a period of twelve months."

Ad hoc
Bar Council
for Gujarat
High Court.

(2) The assets and liabilities of the Bar Council for the High Court of Bombay shall be divided between the Bar Councils for the High Courts of Bombay and Gujarat in such manner as may be agreed upon, and in default of such agreement, as may be directed by the Attorney-General for India.

70. (1) Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provincial Act for the State of Bombay or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, then, the body corporate shall, as from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

(2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

71. In the Inter-State Corporations Act, 1957, in the preamble, in section 2, in clause (f) of sub-section (2) of section 4 and in section 5, after the words and figures "the States Reorganisation Act, 1956", wherever they occur, the words "or of any other enactment relating to reorganisation of States" shall be inserted.

72. (1) Notwithstanding anything contained in section 63 of the Motor Vehicles Act, 1939, a permit granted by the State Transport Authority of Bombay or any Regional Transport authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Gujarat or any Regional Transport Authority therein for the purpose of validating it for use in such area:

Provided that the Central Government may, after consultation with the State Governments of Bombay and Gujarat, add to,

amend or vary the conditions attached to the permit by the Authority by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in the State of Gujarat under any such permit, if such vehicle was, immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory: 5

Provided that the Central Government may, after consultation with the State Governments of Bombay and Gujarat, authorise the levy of any such toll, entrance fees or other charges, as the case may be. 10

Special provision relating to retrenchment compensation in certain cases.

73. Where on account of the reorganisation of the State of Bombay under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by, any other body corporate, co-operative society or undertaking, then notwithstanding anything contained in section 25F of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section: 15 20 25

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment; 30

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman is transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment. 35

14 of 1947.

74. Where the assets, rights and liabilities of any body corporate carrying on any business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses of profits or gains sustained
 5 by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of section 24 of the Indian Income-tax Act, 1922, shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central
 10 Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of section 24 of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses
 15 were sustained.

Special provision to income-tax.

75. The Government of the State of Bombay or, as the case may be, the Government of the State of Gujarat shall, in respect of the institutions specified in the Twelfth Schedule located in that State, continue to provide facilities to the people of the other State which
 20 shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments before the 1st day of October, 1960 or, if no agreement is reached by the said date, as may
 25 be fixed by order of the Central Government.

Continuance of facilities in certain State institutions.

PART VIII

PROVISIONS AS TO SERVICES

76. (1) In this section, the expression "State cadre"—
- 30 (a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and
- (b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.
- (2) In place of the cadres of the Indian Administrative Service
 35 and the Indian Police Service existing in the State of Bombay immediately before the appointed day, there shall, as from that day, be two separate cadres, one for the State of Bombay and the other for the State of Gujarat, in respect of each of these services.
- (3) The initial strength and composition of each of the State cadres
 40 shall be such as the Central Government may by order determine before the appointed day.

Provisions relating to All-India Services.

(4) The members of each of the said services borne on those cadres for the State of Bombay immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Bombay and Gujarat in such manner and with effect from such date or dates as the Central Government may, by order, specify. 5

(5) Nothing in this section shall be deemed to affect the operation, after the appointed day, of the All-India Services Act, 1951, or the rules made thereunder in relation to the State cadres of the said services constituted under sub-section (2) and in relation to the members of those services borne on the said cadres. 10

61 of 1951.

Provisions
relating to
other servic-
es.

77. (1) Every person who, immediately before the appointed day, is serving in connection with the affairs of the State of Bombay shall, as from that day, provisionally continue to serve in connection with the affairs of the State of Bombay, unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of the State of Gujarat. 15

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the State to which every person provisionally allotted to the State of Bombay or Gujarat, shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect. 20

(3) Every person who is finally allotted under the provisions of sub-section (2) to the State of Bombay or Gujarat shall, if he is not already serving therein, be made available for serving in that State from such date as may be agreed upon between the two State Governments or, in default of such agreement, as may be determined by the Central Government. 25

(4) The Central Government may by order establish one or more Advisory Committees for the purpose of assisting it in regard to— 30

(a) the division and integration of the services among the States of Bombay and Gujarat; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons. 35

(5) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 76 apply. 40

(6) Nothing in this section shall be deemed to affect, after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the condi-

tions of service of persons serving in connection with the affairs of the State of Bombay or Gujarat:

5 Provided that the conditions of service applicable immediately before the appointed day to the case of any person provisionally or finally allotted to the State of Bombay or Gujarat under this section shall not be varied to his disadvantage except with the previous approval of the Central Government.

78. Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the affairs of the State of Bombay in any area which on that day falls within the State of Gujarat shall continue to hold the same post or office in the State of Gujarat and shall be deemed, as from that day, to have been duly appointed to the post or office by the Government of, or other appropriate authority in, the State of Gujarat: Provisions as to continuance of officers in same post.

15 Provided that nothing in this section shall be deemed to prevent a competent authority, after the appointed day, from passing, in relation to such person, any order affecting his continuance in such post or office.

79. The Central Government may give such directions to the State Governments of Bombay and Gujarat as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions. Power of Central Government to give directions.

80. (1) The Public Service Commission for the State of Bombay shall, as from the appointed day, continue to be the Public Service Commission for that State with its area as altered by the provisions of Part II. Provisions as to Bombay Public Service Commission.

(2) The report of the Bombay Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of Bombay and Gujarat, and the Governor of Bombay shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Bombay and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Gujarat.

PART IX

LEGAL AND MISCELLANEOUS PROVISIONS

40 81. In section 15 of the States Reorganisation Act, 1956—

(i) in clause (d), for the word "Mysore", the word "Gujarat" shall be substituted; and

Amendment of Act 37 of 1956.

(ii) in clause (e), for the words "Madras and Kerala", the words "Madras, Mysore and Kerala" shall be substituted.

**Territorial
extent of
laws.**

82. The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Bombay shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day. 5

**Power to
adapt laws.**

83. For the purpose of facilitating the application in relation to the State of Bombay or Gujarat of any law made before the appointed day, the appropriate Government may, before the expiration of one year from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority. 10 15

Explanation.—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law, the State Government. 20

**Power to
construe
laws.**

84. Notwithstanding that no provision or insufficient provision has been made under section 83 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Bombay or Gujarat, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority. 25 30

**Power to
name author-
ities, etc.,
for exercising
statutory
functions.**

85. The Government of the State of Gujarat, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly. 35

**Legal pro-
ceedings.**

86. Where immediately before the appointed day, the State of Bombay is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of

Bombay and Gujarat under this Act, the State of Gujarat which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the State of Bombay as a party to those proceedings, or
 5 added as a party thereto, as the case may be, and the proceedings may continue accordingly.

87. (1) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal, authority or officer in any area which on that day falls within the State of Bombay
 10 shall, if it is a proceeding relating exclusively to the transferred territory, stand transferred to the corresponding court, tribunal, authority or officer in the State of Gujarat.

Transfer of pending proceedings.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the
 15 High Court of Bombay and the decision of that High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding court, tribunal, authority or officer" in the
 20 State of Gujarat means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or
 25 officer in that State, as may be determined after the appointed day by the Government of that State, or before the appointed day by the Government of Bombay, to be the corresponding court, tribunal, authority or officer.

88. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the
 30 State of Bombay shall, for a period of six months from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Gujarat.

Right of pleaders to practise in certain cases.

89. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Effect of provisions of the Act inconsistent with other laws.

90. If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with
 such provisions which appears to him to be necessary or expedient for
 40 the purpose of removing the difficulties.

Power to remove difficulties.

Power to
make rules.

91. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[See section 3(1) (b)]

TERRITORIES TRANSFERRED FROM THE STATE OF BOMBAY TO THE STATE OF GUJARAT

(Any reference in this Schedule to a census code number in relation to a village means the code number assigned to that village in the census of 1951).

PART I

Umbergaon taluka of Thana District

Name of Village	Census Code No.	
*Umbergaon	1	
Kalgaon	2	25
Kalai	3	
Govad	4	
Tadgaon	6	
Dehari	7	
Nargol	8	30
Phansa (whole)	9	
Mamakwada	11	
*Maroli	12	
Saronda	13	
Achhari	14	35

	<i>Name of Village</i>	<i>Census Code No.</i>
	Angaon	15
	Ahu	16
	Eklahare	17
5	Kachigaon	18
	Bhati Karambeli	19
	Karambeli Pali	20
	Karambele	21
	*Khattalwada	22
10	Ghimse Kakaria	23
	Jamburi	24
	Tembhi	25
	Tumb	26
	Dahad	27
15	Nahuli	28
	Palgaon	29
	Pali	30
	Punat	31
	Borigaon Tarf Kachigaon	32
20	Borlai	33
	Bhilad	34
	Manda	35
	Manikpur	36
	Mohan	37
25	Vankas	38
	Valvada	39
	Shirgaon	40
	Sanjan	41
	Sarai	42
30	Solsumba	43
	Humran	44
	Dehali	48
	Talwada	49
	Dhanoli	50
35	Nandgaon	61
	Malav	52
	Anklas	55

<i>Name of Village</i>	<i>Census Code No.</i>
Zaroli	67
Nagvas	70
Note: *includes towns of the same name.	

 PART II

5

West Khandesh District

Nawapur taluka

<i>Name of Village</i>	<i>Census Code No.</i>	
Abhankuwa (Forest)	--	
Anandpur	2	10
Babarghat	3	
Bhadbunja	6	
Bhint Bk.	11	
Bhint Khurd	12	
Chacharbunde	18	15
Chadhavbunde (Forest)	--	
Chhapti	19	
Chikhli (Forest)	--	
Dhaj	27	
Haripur	35	20
Jamaki	38	
Jamane	36	
Kachali	39	
Kamalapur	41	
Kataswan	48	25
Khabade	50	
Kokambe (Forest)	--	
Manikpur	68	
Mirkot	70	
Mogarbara (Forest)	72	30
Mograni (Forest)	--	
Nanchhal	75	
Narayanpur	77	
Nurabad	82	
Pakhari	83	35

	Name of Village	Census Code No.
	Parchuli	86
	Pethapur	89
	Sakarde (Digar)	94
5	Sase	96
	Shelud	101
	Sundarpur	106
	Thuti	108
	Uchhal	111
10	Vadadhe Kd.	115
	Vadapatal	117
	Zaranpada	123
<i>Nandurbar taluka</i>		
	Adade	2
15	Anturli	5
	Arkunda (Forest)	—
	Bhilbhavali	19
	Bhiljamboli	20
	Borathe	25
20	Borde	28
	Chinchode	28
	Chorgaon (Deserted)	28A
	Devhale	31
25	Dev Mogra-Gaibi Umber	(Forest village Coupe Nos. 1, 2 and 20 of felling series XX and Coupe Nos. 1 to 9 of felling series XXI).
	Gamadi	39
	Gujarpur	43
30	Harduli (Digar)	44
	Hatnoor (Digar)	46
	Hingani (Digar)	48
	Kavithe	63
	Khairave Kd. T. Dhanore	65
35	Khodade	69

<i>Name of Village</i>	<i>Census Code No.</i>	
Kothali Budruk	77	
Lakhmikhede	79	
Lekurwali	80	
Mubarakpur	86	5
Nasarpur	93	
Newale	96	
Nizar	99	
Pimplod T. Nisar	108	
Raigad	109	10
Ranikhadkale (Deserted)	112A	
Sarvale	115	
Shale	119	
Shelu	121	
Sulvade	125	15
Tapikhadkale	128	
Vadali	136	
Vake	143	
Velade	149	
Vyawal	154	20

PART III

West Khandesh District

Akkalkuwa taluka

<i>Name of Village</i>	<i>Census Code No.</i>	
Akkalkuwa Budruk	1	25
Anghat	6A	
Barktura	15	
Bhogwad	23	
Chatwad	32	
Choti Korali (Deserted)	35A	30
Davariamba	37	
Dongaripade (R)	44	
Gangtha	50	
Itwai	59	

	<i>Name of Village</i>	<i>Census Code No.</i>
	Javali	63
	Kenvada	78
	Kevadamoi	79
5	Khairpada	84
	Khanore	85
	Khokwad	91
	Koktipada	94
	Kolwan	95
10	Langadi	104
	Medhi	111
	Navagaon	121
	Nevadi (Amba)	126
	Palaswada	132
15	Pana	133
	Parod	135
	Parodi	136
	Patipada	138
	Pimpripada	142
20	Ranipur	150
	Ranjaniwad	152
	Rundigavan	156
	Uman	176
	Umja	175
25	Umran	180
	Vadgav	189
	Zapa-amli	196
	Ziribeda	197

Taloda taluka

30	Akkalutar	1
	Amode Tarf Satone	6
	Amode T. Taloda	7
	Asapur	10
	Ashrave	11

<i>Name of Village</i>	<i>Census Code No.</i>	
Ashte T. Budhawal	13	
Bahurupe	14	
Balade	16	
Balambe	15	5
Bej	20	
Bhamsal	21	
Borikuva	25	
Chirmati	31	
Chokhlamali	33	10
Fulwadi	90	
Gadid	41	
Gorase	44	
Hatode	47	
Hol	48	15
Kelani	56	
Kondaraj	64	
Kukurkunde	66	
Mohammadpur (Deserted)	70A	
Matawal	73	20
Mendhpur	74	
Modale	77	
Morambe	80	
Nimbhore	84	
Penibare	87	
Pati	89	25
Pimplas	91	
Pisawar	93	
Rajpur	95	
Ranaichi	98	30
Sadgaven	106	
Satole	108	
Torande	120	
Tulse	122	
Ubhad	123	35

	Name of Village	Census Code No.
	Untavad	126
	Varpade	128
	Vesgaon	129
5	Zumkati	131

THE SECOND SCHEDULE

(See section 7)

PART I

Bombay Members of the Council of States

10 *Members whose term of office expires on the 2nd April, 1962.*

1. Shri P. N. Rajabhoj.
2. Dr. Waman Sheodas Barlingay.
3. Shri T. R. Deogirikar.
4. Shri G. R. Kulkarni.
- 15 5. Shri Dhairyashilrao Yeshwantrao Pawar.
6. Shri M. D. Tumpalliwar.

Members whose term of office expires on the 2nd April, 1964.

7. Shri Babubhai M. Chinai.
8. Shri Ramrao Madhaorao Deshmukh.
- 20 9. Shri Bhaurao Dewaji Khobaragade.
10. Shri Sonusing Dhansing Patil.
11. Shri Lalji Pendse.
12. Shri Abid Ali.

PART II

25 *Gujarat Members of the Council of States.*

Members whose term of office expires on the 2nd April, 1962.

1. Shri Jadvaji Keshavji Modi.
2. Professor Dr. Raghu Vira.
3. Vacant: (Seat of a deceased sitting member).

30 *Members whose term of office expires on the 2nd April, 1964.*

4. Shri Rohit Manushankar Dave.
5. Shri Khandubhai K. Desai.
6. Shri Dahyabhai Vallabhbhai Patel.

THE THIRD SCHEDULE

(See section 11)

AMENDMENTS TO THE FIRST SCHEDULE TO THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1956.

- (1) For the heading "4-BOMBAY", substitute "4-GUJARAT". 5
- (2) In entry 111, after the word "Pardi", insert the word "Umbergaon" and for the words "Surat district", substitute the words "Surat district; and Dangs district".
- (3) After entry 111, add the following note:—

"Note.—Any reference in this Part to Broach, Surat or 10
Dangs district or to Songadh or Umbergaon taluka of Surat district or to Sagbara taluka of Broach district shall be taken to mean the area comprised in that district or taluka, as the case may be, on the 1st day of May, 1960."
- (4) Immediately before entry 112, insert the heading "4 A- 15
BOMBAY".
- (5) In entry 129, omit the words "Dangs district;".
- (6) To the note after entry 148, add:—

"(3) Any reference in this Part to Thana or West Khandesh district or to Nawapur, Nandurbar, Akkalkuwa or Taloda taluka 20
of West Khandesh district shall be taken to mean the area comprised in that district or taluka, as the case may be, on the 1st day of May, 1960."
- (7) In the Appendix—
 - (a) for the heading "II-Bombay", substitute "II-Gujarat"; 25
and
 - (b) immediately before the sub-heading "KOLABA District", insert the heading "II-A BOMBAY".

THE FOURTH SCHEDULE

(See section 14)

30

AMENDMENTS TO THE SECOND SCHEDULE TO THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1956.

- (1) For the heading "4-BOMBAY", substitute "4-GUJARAT".
- (2) In entry 103, for the words "Sagbara mahal", substitute "Sagbara taluka". 35

(3) For the sub-heading "SURAT DISTRICT" appearing before entry 106, substitute the sub-heading "SURAT AND DANGS DISTRICTS".

5 (4) In entry 114, for the words "Bansda taluka;", substitute the words "Dangs district; Bansda taluka;".

(5) In entry 118, for the words "Pardi taluka" in column 3, substitute the words "Pardi and Umbergaon talukas".

(6) After entry 118—

(a) add the following Note:—

10 "Note.—Any reference in this Part to Broach, Surat or Dangs district or to Sagbara taluka of Broach district or to Songadh or Umbergaon taluka of Surat district shall be taken to mean the area comprised in that district or taluka, as the case may be, on the 1st day of May, 1960.";

15 (b) after the said Note, insert an Appendix reproducing items (1) to (33) of the existing Appendix to Part 4 of the Order.

(7) Immediately before the sub-heading "GREATER BOMBAY DISTRICT", insert the heading "4-A BOMBAY" to make all following entries, together with the Appendix and Annexure, a separate
20 Part for the State of Bombay.

(8) Omit the asterisk mark before the sub-heading "GREATER BOMBAY DISTRICT" and foot-notes 1 and 2.

(9) In entry 143, for the words "Dahanu and Umbergaon talukas",
25 substitute the words "Dahanu taluka".

(10) For the sub-heading immediately before entry 228, for the words "NASIK AND DANGS DISTRICTS", substitute "NASIK DISTRICT".

(11) In entry 230, for the words "Peint and Surgana mahals",
30 substitute the words "Peint mahal".

(12) In entry 231, for the word "Dangs" in column 2, substitute the word "Kalwan" and for the words "Dangs district;" in column 3, substitute the words "Surgana mahal".

(13) In entry 238, for the entry in column 3, substitute "Sakri and
35 Nandurbar talukas".

(14) In entry 239, for the entry in column 3, substitute "Nawapur taluka".

(15) For the Note appearing immediately after entry 339, substitute:—

“Note.—(1) Any reference in this Part to Thana or West Khandesh district or to Dahanu taluka of Thana district or to Nawapur, Nandurbar, Akkalkuwa or Taloda taluka of West Khandesh district shall be taken to mean the area comprised in that district or taluka, as the case may be, on the 1st day of May, 1960.

(2) The names of the 77 census wards of Greater Bombay are set out in item (1) of the Appendix; and a fuller description of the Assembly constituencies Nos. 1 to 21 in terms of roads, streets and other thoroughfares and of villages is given in item (2) of the Appendix.

(3) The names of the villages in Banoti and Soegaon circles referred to in the Assembly constituencies Nos. 220 and 221, respectively, are set out in the Annexure to this Part.”

(16) Renumber entries 119 to 339 as entries 1 to 221 respectively, and the references in those entries to items (36) to (71) and (73) to (79) of the Appendix as (3) to (45) respectively.

(17) In the Appendix,—

- (a) omit items (1) to (33) and the sub-headings thereof;
- (b) renumber items (34) to (71) as items (1) to (38) respectively;
- (c) omit item (72);
- (d) renumber items (73) to (79) as items (39) to (45) respectively; and
- (e) in item (2) as so renumbered, renumber the references to Assembly constituencies Nos. 119 to 139 as Nos. 1 to 21 respectively.

THE FIFTH SCHEDULE

(See section 20)

AMENDMENTS TO THE DELIMITATION OF COUNCIL CONSTITUENCIES (BOMBAY) ORDER, 1951

In the Table, omit

- (a) the entries relating to—
 - (i) Gujarat (Graduates) constituency;
 - (ii) Gujarat (Teachers) constituency;

- (iii) Saurashtra (Local Authorities) constituency;
- (iv) Gujarat North (Local Authorities) constituency;
- (v) Gujarat South (Local Authorities) constituency;

and

- (b) the word "Dangs" wherever it occurs in column 2.

THE SIXTH SCHEDULE

(See section 21)

SITTING MEMBERS WHO SHALL CEASE TO BE MEMBERS OF THE BOMBAY LEGISLATIVE COUNCIL

- (i) Members representing any of the five Constituencies specified in item (a) of the Fifth Schedule.

(ii) The following members elected by the members of the Bombay Legislative Assembly, namely:—

1. Shri Dadoobhai Amin.
2. Shri Chandrakant Chhotalal Mehta.
3. Shri Gulam Haider Walimohammed Momin
4. Shrimati Madinabai Akbarbhai Nagori.
5. Shrimati Bhanumatiben Manilal Parekh.
6. Shrimati Anasuya Chhotalal Shah.
7. Shrimati Jyotsnaben Bahusukhram Shukla.

THE SEVENTH SCHEDULE

(See section 24)

AMENDMENTS OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

- (1) For paragraph 4, substitute:—

- "4. Any reference in this Order, except Parts IV and IV-A of the Schedule, to a State or to a district or other territorial division thereof, shall be construed as a reference to the State, district or other territorial division, constituted as from the 1st day of November, 1956; and any reference in Parts IV and IV-A of the Schedule to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division constituted as from the 1st day of May, 1960".

(2) In Part IV,—

(a) in paragraph 1, for the words “Bhir, Osmanabad, Halar, Madhya Saurashtra, Zalawad, Gohilwad, Sorath and Kutch”, substitute “Bhir and Osmanabad”;

(b) in paragraph 2, omit the word “Dangs”; 5

(c) omit paragraphs 9 and 10.

(3) After Part IV, insert the following:—

“PART IVA. *Gujarat*

1. Throughout the State except the districts of Jamnagar, Rajkot, Surendranagar, Bhavnagar, Junagadh and Kutch:— 10

1. Ager

2. Bakad or Bant

3. Bhambli, Bhambhi, Asadaru, Asodi, Chamadia, Chamar, Chambhar, Chamgar, Haralayya, Harali, Khalpa, Machigar, Mochigar, Madar, Madig, Telegu Mochi, Kamati Mochi, Rani- 15
gar, Rohidas, Rohit or Samgar

4. Bhangi, Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Balmiki, Korar or Zadmalli

5. Chelvadi or Channayya

6. Chenna Dasar or Holaya Dasar 20

7. Dhor, Kakkayya or Kankayya

8. Garoda or Garo

9. Halleer

10. Halsar, Haslar, Hulasvar or Halasvar 25

11. Holar or Valhar

12. Holaya or Holer

13. Lingader

14. Mahar, Taral or Dhegu Megu

15. Mahyavanshi, Dhed, Vankar or Maru Vankar

16. Mang, Matang or Minimadig 30

17. Mang-Garudi

18. Meghval or Menghvar

19. Mukri

20. Nadia or Hadi

21. Pasi 35

22. Shenva, Chenva, Sedma or Rawat

23. Tirgar or Tirbanda

24. Turi.

2. In the district of Dangs, Mochi.

3. In the districts of Jamnagar, Rajkot, Surendranagar, Bhavnagar and Junagadh:—

1. Bawa (Dedh) or Dedh-Sadhu
- 5 2. Bhangi or Rukhi
3. Chamadia
4. Chamar, Nalia or Rohit
5. Dangashia
6. Garoda
- 10 7. Garmatang
8. Hadl
9. Meghwal
10. Senva
11. Shemalia
- 15 12. Thori
13. Turi
14. Turi-Barot or Dedh-Barot
15. Vankar, Dhedh or Antyaj

4. In the district of Kutch:—

- 20 1. Bhangi
2. Chamar
3. Garoda
4. Meghwal
5. Turi
- 25 6. Turi-Barot

THE EIGHTH SCHEDULE

(See section 25)

AMENDMENT OF THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

(1) For paragraph 3, substitute:—

- 30 "3. Any reference in this Order, except Parts IV and IV-A of the Schedule, to a State or to a district or other territorial division thereof, shall be construed as a reference to the State, district or other territorial division, constituted as from the 1st day of November, 1956; and any reference in Parts IV and IV-A of

the Schedule to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division, constituted as from the 1st day of May, 1960.”.

(2) In Part IV,—

5

(a) in paragraph 1, for the words “Bhir, Osmanabad, Halar, Madhya Saurashtra, Zalawad, Gohilwad, Sorath and Kutch”, substitute “Bhir and Osmanabad”.

(b) Omit paragraphs 2, 3, 9, 10, 11 and 12.

(3) After Part IV, insert the following:—

10

“PART IVA.—*Gujarat*

1. Throughout the State *except* the districts of Jamnagar, Rajkot, Surendranagar, Bhavnagar, Junagadh and Kutch:—

1. Barda

2. Bavacha or Bamcha

15

3. Bhil, including Bhil Garasia, Dholi Bhil, Dungri Bhil, Dungri, Garasia, Mewasi Bhil, Rawal Bhil, Tadvi Bhil, Bhagalia, Bhi-lala, Pawra, Vasava and Vasave

4. Chodhara

5. Dhanka, including Tadvi, Tetaria and Valvi

20

6. Dhodia

7. Dubla, including Talavia or Halpati

8. Gamit or Gamta or Gavit, including Mavchi, Padvi, Vasava, Vasave and Valvi

9. Gond or Rajgond

25

10. Kathodi or Katkari, including Dhor Kathodi or Dhor Katkari and Son Kathodi or Son Katkari

11. Kokna, Kokni, Kukna

12. Koli, Dhor, Tokre Koli, Kolcha or Kolgha.

13. Naikda or Nayaka, including Cholivala Nayaka, Kapadia³⁰ Nayaka, Mota Nayaka and Nana Nayaka

14. Pardhi, including Advichincher and Phanse Pardhi

15. Patelia

16. Pomla

17. Rathawa

35

18. Varli

19. Vitolia, Kotwalia or Barodia

2. In Dangs district, Kunbi.

3. In Surat District, Chaudhri.

5 4. In the districts of Jamnagar, Rajkot, Surendranagar, Bhavnagar
and Junagadh:—

Siddi

5. In Nesses area in the forests of Alech, Gir and Barada:—

1. Bharwad

2. Charan

10 3. Rabari.

6. In Surendranagar district:—
Padhar

7. In Kutch district:—

1. Bhil

15 2. Dhodia

3. Koli

4. Paradhi

5. Vaghri

THE NINTH SCHEDULE

20 [See section 42(1)]

I—MODIFIED FORM OF SECTION 3 OF THE UNION DUTIES OF EXCISE (DISTRIBUTION) ACT, 1957

(1) Section 3 of the Union Duties of Excise (Distribution) Act,
1957, shall, as from the 1st day of May, 1960, have effect subject to
25 the following modifications, namely:—

In the Table below section 3, for the entry relating to
Bombay, the following entries shall be substituted, namely:—

"Bombay	8·07
Gujarat	4·10"

30 (2) For the purposes of calculating the amount payable under
section 3 to Bombay in the first month of the financial year com-
mencing on the 1st day of April, 1960, and to Bombay and Gujarat
during the remaining eleven months of that financial year, the distri-
butable union duties of excise shall be deemed to be one-twelfth and
35 eleven-twelfths, respectively, of the distributable union duties of
excise for that financial year.

II—MODIFIED FORM OF SECTIONS 3 AND 5 OF THE ESTATE DUTY AND TAX ON RAILWAY PASSENGER FARES (DISTRIBUTION) ACT, 1957.

A—Distribution of estate duty

(1) Section 3 of the Estate Duty and Tax on Railway Passenger Fares (Distribution) Act, 1957, shall, as from the 1st day of May, 1960, have effect subject to the following modifications, namely:—

In clause (b) of sub-section (2), for the entry relating to Bombay, the following entries shall be substituted, namely:—

"Bombay	8.97	
Gujarat	4.55"	10

(2) For the purposes of calculating the amount payable under sub-section (1) of section 3 to Bombay in the first month of the financial year commencing on the 1st day of April, 1960, and to Bombay and Gujarat during the remaining eleven months of that financial year, the total amount falling to be distributed shall be deemed to be one-twelfth and eleven-twelfths, respectively, of the total amount falling to be distributed for that financial year.

B—Distribution of tax on railway passenger fares

(1) Section 5 of the Estate Duty and Tax on Railway Passenger Fares (Distribution) Act, 1957, shall, as from the 1st day of May, 1960, have effect subject to the following modifications, namely:—

For the entry relating to Bombay, the following entries shall be substituted, namely:—

"Bombay	10.80	
Gujarat	5.48"	25

(2) For the purposes of calculating the amount payable under section 5 to Bombay in the first month of the financial year commencing on the 1st day of April, 1960, and to Bombay and Gujarat during the remaining eleven months of that financial year, the net proceeds of the tax on railway passenger fares shall be deemed to be one-twelfth and eleven-twelfths, respectively, of the net proceeds of such tax for that financial year.

III—MODIFIED FORM OF THE SECOND SCHEDULE TO THE ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) ACT, 1957.

A—Distribution of additional duties on sugar 35

(1) In the Second Schedule, the Table at the end of Part I shall, as from the 1st day of May, 1960, have effect subject to the follow-

ing modifications, namely —

For the entry relating to Bombay, the following entries shall be substituted, namely —

	"Bombay	8·07	162	13·37
5	Gujarat	4·10	83	6·80"

(2) For the purposes of calculating the amount payable under Part I of the Second Schedule to Bombay in the first month of the financial year commencing on the 1st day of April, 1960, and to Bombay and Gujarat during the remaining eleven months of that financial year, the net proceeds of the additional duties in respect of sugar shall be deemed to be one-twelfth and eleven-twelfths, respectively, of the net proceeds of such duties for that financial year, and in respect of that financial year, the sums specified in the third column of the Table shall be deemed to have been replaced by 20 for the first month and 149 for the remaining eleven months, in relation to Bombay, and by 76 in relation to Gujarat

B—Distribution of additional duties on tobacco

(1) In the Second Schedule, the Table below paragraph 4 shall, as from the 1st day of May, 1960, have effect subject to the following modifications, namely:—

For the entries relating to Bombay, the following entries shall be substituted namely:—

	"Bombay	8·07	76	11·54
	Gujarat	4·10	39	5·87"

(2) For the purposes of calculating the amount payable under paragraph 4 to Bombay in the first month of the financial year commencing on the 1st day of April, 1960, and to Bombay and Gujarat during the remaining eleven months of that financial year, the net proceeds of the additional duties on tobacco shall be deemed to be one-twelfth and eleven-twelfths, respectively, of the net proceeds of such duties for that financial year; and in respect of that financial year, the sums specified in the third column of the Table shall be deemed to have been replaced by 10 for the first month and 70 for the remaining eleven months in relation to Bombay, and by 35 in relation to Gujarat

C—Distribution of additional duties on textiles

(1) In the Second Schedule, the Table at the end of Part III shall as from the 1st day of May, 1960, have effect subject to the following

modifications, namely:—

For the entry relating to Bombay, the following entries shall be substituted, namely:—

“Bombay	398	10·91	5
Gujarat 5:38”			

(2) For the purposes of calculating the amount payable under Part III of the Second Schedule to Bombay in the first month of the financial year commencing on the 1st day of April, 1960, and to Bombay and Gujarat during the remaining eleven months of that financial year, the net proceeds of the additional duties in respect of cotton fabrics, rayon or artificial silk fabrics and woollen fabrics shall be deemed to be one-twelfth and eleven-twelfths, respectively, of the net proceeds of such duties for that financial year; and in respect of that financial year the sums specified in the second column of the Table shall be deemed to have been replaced by 50 for the first month and 365 for the remaining eleven months, in relation to Bombay, and by 185 in relation to Gujarat.

IV—MODIFIED FORM OF PARAGRAPH 3 OF THE CONSTITUTION (DISTRIBUTION OF REVENUES) NO. 2 ORDER, 1957.

(1) Paragraph 3 of the Constitution (Distribution of Revenues) No. 2 Order, 1957, shall, as from the 1st day of May, 1960, have effect subject to the following modifications, namely:—

In the Table at the end of paragraph 3, for the entry relating to Bombay, the following entries shall be substituted, namely:—

“Bombay	10·59
Gujarat 5·38”	

(2) For the purposes of calculating the amount payable under paragraph 3 to Bombay in the first month of the financial year commencing on the 1st day of April, 1960, and to Bombay and Gujarat during the remaining eleven months of that financial year, the net proceeds of taxes on income shall be deemed to be one-twelfth and eleven-twelfths, respectively, of the net proceeds of taxes on income for that financial year.

THE TENTH SCHEDULE

[See section 44(2)]

1. Stores held for specific purposes such as for use or utilisation in particular institutions, workshops or undertakings or on particular works under construction shall pass to the State in which such institutions, workshops, undertakings or works are located on the appointed day.

2. Stores relating to Sachivalaya and offices of Heads of Departments having, immediately before the appointed day, jurisdiction over the whole of the State of Bombay shall remain the property of the State of Bombay :

5 Provided that typewriters, duplicators, clocks and vehicles shall be divided between the States of Bombay and Gujarat according to the population ratio.

10 3. All other unissued stores, pooled stores, and stores purchased on or after the 1st July, 1959, of any class shall be divided between the States of Bombay and Gujarat in proportion to the total stores of that class purchased in the period of three years ending with the 31st March, 1960 for the territories included respectively in each of those States :

15 Provided that where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed Rs. 10,000, that class of stores shall be divided between the two States according to the population ratio.

THE ELEVENTH SCHEDULE

(See section 56)

20 APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of the States of Bombay and Gujarat shall, in respect of pensions granted by the State of Bombay before the appointed day, pay the pensions drawn in its treasuries.

25 2. Subject to the said adjustments, the liability in respect of pensions of officers serving in connection with the affairs of the State of Bombay who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions are outstanding immediately before that day, shall be the liability of the
30 State of Bombay.

3. There shall be computed in respect of the part of the financial year commencing on the appointed day and in respect of each subsequent financial year, the total payments made in each of the States of Bombay and Gujarat in respect of pensions referred to in paragraphs 1 and 2; that total, representing the liability of the State
35 of Bombay in respect of pensions, shall be apportioned between the States of Bombay and Gujarat in the population ratio, and the State paying more than its due share shall be reimbursed the excess amount by the other State.

4. (1) The liability in respect of the pension of any officer serving immediately before the appointed day in connection with the affairs of the State of Bombay and retiring on or after that day, shall be that of the State which grants him the pension; but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the State of Bombay shall be allocated between the States of Bombay and Gujarat in the population ratio, and the Government which grants the pension shall be entitled to receive from the other Government its share of this liability. 5

10

(2) If any such officer was serving after the appointed day for some period in connection with the affairs of the State of Bombay and for some period in connection with the affairs of the State of Gujarat, the Government other than the one granting the pension shall reimburse to the Government by which the pension is granted 15 an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed day under the reimbursing State bears to the total qualifying service after the appointed day reckoned for the purposes of pension. 20

5. Any reference in this Schedule to a pension shall be construed as including a reference to the commuted value of the pension

THE TWELFTH SCHEDULE

(See section 75)

1. J. J. College of Architecture, Bombay. 24
2. J. J. Institute of Applied Art, Bombay.
3. School of Printing Technology, Bombay.
4. Government Tanning Institute, Bombay.
5. Government Leather Working School, Bombay.
6. Veterinary College, Bombay. 26
7. R. A. Podar Medical College (Ayurvedic), Bombay
8. C. E. M. Dental College, Bombay
9. Haffkine Institute, Bombay.
10. Forensic Science Laboratory and Chemical Analysers Department, Bombay. 35
11. State Fire School, Ghatkopar, Bombay.
12. Secretariat Record Office, Bombay.

13. Mathematical Instruments Depot and Workshop, Bombay.
14. Drugs Testing Laboratory, Bombay.
15. Engineering College, Poona.
16. Government Polytechnic, Poona.
- 5 17. Agricultural College, Poona.
18. Jail Officers' Training School, Yeravda, Poona.
19. Alienation Office, Poona.
20. Government Photozinc Press, Poona.
21. Government Photo Registry, Poona.
- 10 22. Institute of Veterinary Biological Products, Poona.
23. Government Polytechnic, Nagpur.
24. Public Health Institute, Nagpur.
25. Vaccine Institute, Nagpur.
26. L. D. College of Engineering, Ahmedabad.
- 15 27. R. C. Technical Institute, Ahmedabad.
28. Bhavansinhji Polytechnic Institute, Bhavnagar.
29. A. V. Parekh Technical Institute, Rajkot.
30. Police Training School, Nasik.

STATEMENT OF OBJECTS AND REASONS

In the Address delivered by the President to Parliament at the inauguration of the current session, it was announced that the Government of India proposed to introduce a Bill for the reorganisation of the present State of Bombay. The Bombay Reorganisation Bill is designed to reconstitute the present State as two separate States.

The Bill provides for the territories of the two States, and makes the necessary supplemental and incidental provisions relating to representation in Parliament and in the State Legislatures, the apportionment of assets and liabilities and other matters.

As required by the proviso to article 3 of the Constitution, this Bill was referred by the President to the Legislature of the State of Bombay and has been considered by both Houses of the State Legislature. Its views have been received and will also be placed before Parliament.

The notes on clauses explain the various provisions of this Bill.

G. B. PANT.

NEW DELHI,

The 19th March, 1960.

Notes on Clauses

Clause 2—Sub-clause (f).—According to the 1951 census, the population of the existing State of Bombay is 48·265 millions, the population of the residuary State of Bombay is about 32·003 millions and that of Gujarat is 16·262 millions. The population ratio between the States has been ascertained on that basis.

Clauses 3 to 5 and the First Schedule.—Sub-clause (1) of clause 3 provides for the formation of the new State of Gujarat by transfer thereto from the existing State of Bombay of 17 districts, 50 villages of Umbergaon taluka of Thana district and 156 villages of Nawapur, Nandurbar, Akkalkuwa and Taloda talukas of West Khandesh district.

Provision has been made in sub-clause (2) that the aforesaid villages shall be included in Surat and Broach districts of Gujarat. This would facilitate the making of suitable administrative arrangements on and from the appointed day without a break. Clause 5 expressly saves the power of the State Government to alter thereafter the name of any district or other territorial division in the State.

Clause 4 seeks to make certain consequential amendments in the First Schedule to the Constitution.

Clauses 6 to 9 and the Second Schedule.—These clauses deal with the representation of Bombay and Gujarat in the Council of States. There are at present 27 members representing the existing State of Bombay in the said Council. The present allocation is based on the formula, one seat per million for the first five millions and one seat for every additional two millions or part thereof exceeding one million. On this basis, the residuary State of Bombay has been allotted 18 seats, and Gujarat 11 seats, in the Council of States. There will thus be two additional seats in the said Council.

Out of the 27 sitting members, 9 members will retire on 2nd April, 1960. Of the remaining 18 sitting members, 12 have been allotted to Bombay and 6 to Gujarat as specified in the Second Schedule.

Out of the 9 members to be elected at the biennial elections, 6 members will be selected by the Chairman of the Council of States to represent Bombay and the remaining 3 will represent Gujarat.

After such allocation of members, there will be no vacancy in the seats allotted to Bombay but there will be 3 vacancies in the seats allotted to Gujarat, namely, one existing casual vacancy caused by the death of a sitting member and two additional seats allotted to that State. These will be filled by bye-elections to be held soon after the appointed day.

In order that, as nearly as may be, one third of the members allotted to the State of Gujarat may retire every second year, it is proposed to make modifications in the terms of office of the two members to be elected to fill the two additional seats allotted to that State.

Clauses 10 to 12 and the Third Schedule.—These clauses deal with the representation of the State of Bombay and Gujarat in the House of the People. There are at present 66 members representing the existing State of Bombay in that House. The number of seats allotted to Gujarat is 22 and the remaining 44 members will continue to represent the State of Bombay. The allocation of seats has been based on the territorial location of the constituencies concerned. Consequential amendments have been made in the First Schedule to the Representation of the People Act, 1950.

Clause 11 seeks to make modifications in the First Schedule to the Delimitation of Parliamentary and Assemblies Constituencies Order, 1956, in view of the formation of the new State of Gujarat and the transfer thereto of certain territories from the existing State of Bombay. The Dangs district and the Umbergaon taluka transferred to Gujarat have been included in the Bulsar constituency. The necessary modifications have been set out in the Third Schedule. Provision has been made in clause 12 that every sitting member of the House of the People representing a constituency the extent of which has been altered by clause 11 shall be deemed to have been elected to the said House by that Constituency as so altered.

Clauses 13 to 18 and the Fourth Schedule.—At present there are 397 members in the Legislative Assembly of Bombay, one of whom is a member nominated to represent the Anglo-Indian community. It is proposed that the nominated member should continue to be a member of the Bombay Legislative Assembly. Of the remaining 396 members, 264 members have been allotted to Bombay and remaining 132 to Gujarat.

The allocation of seats in this case also has been based on the territorial location of the constituencies concerned. Necessary consequential amendments have been made in the Second Schedule to the Representation of the People Act, 1950.

Clause 14 read with the Fourth Schedule provides for the necessary adjustments in the assembly constituencies in both the States

Other clauses are consequential and self-explanatory.

Clauses 19 to 23 and the Fifth and Sixth Schedules.—These clauses deal with the Legislative Council of Bombay. At present there are 108 members in that Council. It is proposed not to have any Legislative Council in the State of Gujarat and the strength of the Legislative Council of Bombay has been reduced from 108 to 78.

There are 18 members in the Legislative Council representing graduates' constituency, teachers' constituency and local authorities' constituencies located wholly in Gujarat. These constituencies have been specified in the Fifth Schedule. It is proposed that members representing such constituencies should cease to be members of that Council.

There are 42 members in the Council elected by the members of the Legislative Assembly of Bombay. Of them, 12 members who have affiliations with Gujarat should also cease to be members of the Council. Out of these twelve members, 5 members are retiring on 24th April, 1960. The names of the remaining 7 members have been specified in the Sixth Schedule.

Necessary consequential amendments have been made in the Third Schedule to the Representation of the People Act, 1950, and 78 seats have been distributed among the categories referred to in clauses (a), (b), (c), (d) and (e) of article 171(3) of the Constitution, as 22, 7, 7, 30 and 12 respectively.

As some of the members of the Bombay Legislative Council will retire on the 24th April, 1960, it would have been necessary to hold biennial elections before that day. It is, however, desirable that such elections should be held after the reorganisation of Bombay and provision has accordingly been made in clause 22 that the biennial elections shall be held after the appointed day.

The Chairman of the existing Legislative Council of Bombay who belongs to Gujarat areas will cease to be a member of that Council on the appointed day. Provision has, therefore, been made in clause 23 for the election of a new Chairman of the Council after the appointed day.

Clauses 24 and 25 and the Seventh and Eighth Schedules.—In view of the territorial changes brought about by the formation of the new State of Gujarat, certain amendments are necessary in the Constitution (Scheduled Castes) Order, 1950, and the Constitution

(Scheduled Tribes) Order, 1950. The necessary modifications have been set out in the Seventh and Eighth Schedules.

Clauses 26 to 38.—These clauses deal with the establishment of a High Court for the State of Gujarat, its composition, powers and functions and the procedure to be followed by it. The detailed provisions contained in these clauses follow in the main provisions made for the setting up of a new High Court in the Andhra State Act, 1953, and the States Reorganisation Act, 1956.

Clause 39.—In order that the administration of the new State of Gujarat can be carried on until the Legislature of that State has sanctioned expenditure from the Consolidated Fund of that State and passed the necessary Appropriation Act, provision has been made in this clause for the Governor of Bombay to authorise at any time before the appointed day such expenditure as he thinks necessary for a period of six months from that date; a similar power is conferred on the Governor of Gujarat after the appointed day.

Clause 40.—This clause contains the usual provision that the reports of the Comptroller and Auditor-General of India for any period prior to the appointed day should be submitted to the Governors of Bombay and Gujarat and enables the President to take such further action as may be appropriate under the circumstances.

Clause 41.—This clause seeks to empower the President to determine by order the allowances and privileges of the Governor of the new State of Gujarat, until Parliamentary legislation is undertaken for the purpose.

Clause 42(1) and the Ninth Schedule.—The distribution among the States of the proceeds of certain taxes and duties like income-tax, excise duties, estate duty, etc., is regulated by certain Parliamentary enactments and the Constitution (Distribution of Revenues) No. 2 Order, 1957. Provision has been made in the Ninth Schedule that the amount payable to the existing State of Bombay on account of its share of such taxes and duties shall be divided between the States of Bombay and Gujarat according to the population ratio and necessary modifications have been made in all such enactments and Order.

Clauses 42(2), 48(1), 49 and 51(5).—These clauses deal with certain financial provisions in connection with the reorganisation of the existing State of Bombay. It is proposed to allocate a sum of Rs. 10 crores from the cash balance investment account of the existing State for financing the construction or development of the capital of the Gujarat State. This provision has been made in clause 48(1).

The annual deficit of the new State of Gujarat which is to be provided for is estimated to range from Rs. 6.02 crores in the year 1960-61 (11 months) to Rs. 1.14 crores in 1969-70.

The payment in the two financial years ending on the 31st March, 1962, towards meeting of this deficit will be made by the transfer to Gujarat in each of these years of the necessary amount from out of the share of the divisible heads of revenue accruing to the State of Bombay under the devolution of revenues by the Central Government. This provision has been made in clause 42(2).

As regards the subsequent financial years, it has been proposed that in the division of assets and liabilities as on the appointed day, a financial benefit equal to the present value of the recurring payments due to Gujarat in each of the 8 financial years from 1962-63 to 1969-70 should be passed on by the residuary State of Bombay to the new State of Gujarat. The present value of the benefit due to Gujarat has been computed at Rs. 28.39 crores. The adjustment on this account will be made in the following manner:—

- (i) securities to the value of Rs. 14.20 crores will be transferred by the State of Bombay to Gujarat, and
- (ii) the liability of the State of Gujarat on account of its share to public debt will be reduced by Rs. 14.19 crores, the liability of the State of Bombay being correspondingly increased.

Clauses 49 (1) and 51 (5) seek to give effect to these proposals.

It has been further proposed that Gujarat should establish a special revenue reserve fund which will be utilised for supplementing the receipts on the revenue account during the period in respect of which this special provision is being made. Provision in this behalf has been made in clauses 49 (2) and 49 (3).

Clause 48.—Sub-clauses (2) to (5), Clause 51—Sub-clauses (1) to (4) and Clause 52.—In view of the substantial investments of the Government of Bombay in certain funds and commercial undertakings and statutory bodies, it is proposed to make a specific provision for the allocation of assets representing such investments. Sub-clauses (2) to (5) of clause 48 seek to make such provisions.

In respect of the public debt of Bombay, the provisions made in clause 51 generally follow the corresponding provisions of the States Reorganisation Act. Where, however, the State of Bombay has taken a specific loan from the Central Government or from any other source for the purpose of re-lending the same to specific institutions, it is proposed to make a separate provision in clause 51(2) for the allocation of public debt attributable to such loan. Other changes made in clause 51 are of a minor character and are self-explanatory. A specific provision has also been made in clause 52 for the allocation of the liability of the State of Bombay on account of its floating loan.

Clauses 43 to 47, 50, 53 to 64 and the Tenth Schedule.—These clauses also relate to the apportionment of the assets and liabilities of the State of Bombay. They generally follow the corresponding provisions of the States Reorganisation Act, but there have been slight deviations in certain respects.

In respect of stores referred to in the Tenth Schedule, the principles of division have been specified therein. The allocation of assets representing arrears of taxes as provided in clause 46 generally follows the principle laid down in section 78 of the States Reorganisation Act, but in respect of arrears of sales tax accruing during the period between the 1st January, 1960 and the appointed day and collected after that day, it is proposed that they should be treated as common receipts and shared between the two States of Bombay and Gujarat according to the population ratio. The proviso to clause 46 seeks to achieve this object. Similarly, the liability for any refund

in respect of such payments should also be shared by the two States as provided in clause 53.

A specific provision has also been made in clause 62 empowering the two State Governments to vary, by agreement, the manner of apportionment of any asset or liability.

Clause 65.—This clause enables the Bombay State Electricity Board and the Bombay State Warehousing Corporation to continue to function in the same areas as at present, even after the formation of the State of Gujarat, until the 1st October, 1960. As and when the State of Gujarat and the residuary State of Bombay set up their own electricity boards and warehousing corporations, the existing board and corporation will be dissolved and their assets and liabilities shall be transferred to the corresponding new boards and corporations. Provision has also been made for the contingency of either State not setting up its electricity board or warehousing corporation by the 1st October, 1960, in which case the State itself will take over its due share of the assets and liabilities of the existing board or corporation on its dissolution.

Clause 67.—This clause contemplates that the existing Bombay State Financial Corporation will continue to function in the same areas as at present, even after the appointed day, until a scheme is framed in this behalf for the reconstitution, reorganisation or dissolution of the corporation, including proposals regarding the formation of new corporations and transfer thereto of all the assets, rights and liabilities of the existing corporation. Such a scheme has to be approved at a general meeting of all the shareholders and sanctioned by the Central Government. In case of disagreement, the matter has to be referred to a Judge of the Bombay High Court whose decision thereon shall be final.

Clauses 68 and 71.—Clause 68 seeks to amend section 47A of the Road Transport Corporations Act, 1950 so as to make it applicable to any road transport corporation which becomes an inter-State body by virtue of the provisions of any enactment relating to reorganisation of States.

Clause 71 seeks to amend the Inter-State Corporations Act, 1957 for the same purpose.

Clause 69.—This clause enables a separate Bar Council to be set up for the State of Gujarat and provides for the manner in which the first Bar Council of that State shall be constituted, and the division of assets and liabilities of the Bombay Bar Council between the Gujarat Bar Council and the Bar Council for the residuary State of Bombay.

Clause 74.—Under section 24 of the Indian Income-Tax Act, 1924, an assessee who sustains a loss of profits or gains is entitled to have the amount of loss set off against his income under certain circumstances. It is proposed to extend the benefit of this section to a body corporate to which the assets, rights and liabilities of any existing body-corporate, including any loss sustained by it, are transferred under the provisions of Part VII.

Clauses 66, 70, 72, 73 and 75.—These clauses follow the corresponding provisions of the States Reorganisation Act, 1956.

Clauses 76 to 79.—These clauses make provisions relating to services. Clause 76 provides for two separate cadres—one for the State of Bombay and the other for the State of Gujarat—in respect of the Indian Administrative Service and the Indian Police Service in place of the existing cadres in respect of these services in the State of Bombay. It also confers power on the Central Government to determine the strength and composition of the new cadres and to allocate individual officers thereto. Clause 77 provides for the allocation of other officers serving in connection with the affairs of the State of Bombay.

These clauses generally follow the corresponding provisions of the States Reorganisation Act.

Clause 80.—It is not proposed to make any provision in the Bill for the division of the Public Service Commission of the existing State of Bombay as the intention is that this Commission should continue to function for the residuary State of Bombay only and a new Public Service Commission should be set up for the State of Gujarat under the relevant provisions of the Constitution.

Clause 81.—The existing States of Bombay and Mysore are in the Zonal Council for the Western Zone. There has been a long-standing demand that Mysore should be included in the Southern Zone. It has been accordingly proposed to transfer Mysore to the Southern Zone. The Zonal Council for the Western Zone will be composed of Bombay and Gujarat only. This clause seeks to make necessary amendments in section 15 of the States Reorganisation Act, 1956.

Clauses 82 to 91.—These clauses are of a miscellaneous and legal nature and they generally follow the corresponding provisions of the States Reorganisation Act, 1956.

FINANCIAL MEMORANDUM

Clause 42 (1) read with the Ninth Schedule and clause 42 (2) contemplate payment of certain sums of money to the new State of Gujarat. As these payments will be made out of the amount payable to the existing State of Bombay, no additional expenditure will be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 91 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill when enacted. This power will be required mainly with reference to clause 67(3) for prescribing the manner in which a general meeting of the Bombay State Financial Corporation is to be convened for the purpose mentioned therein and with reference to clause 74 for prescribing the manner in which the losses of profits and gains sustained by any body corporate are to be apportioned among other bodies corporate. Moreover, such rules when they are made shall be placed before Parliament.

Clause 83 empowers the Central Government as well as the Governments of Bombay and Gujarat to adapt existing laws in order to facilitate their application to the two States after reorganisation. This power will be available until the expiration of one year from the appointed day.

The proposed delegation of legislative power is of a normal character.

BILL No. 14 OF 1960

A bill to provide for the better supervision and administration of certain religious trusts.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Religious Trusts Act, 1960. Short title,
extent and
commence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint.

10 2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Commissioner” means the Commissioner of Religious Trusts appointed under sub-section (1) of section 3 and includes a deputy Commissioner or an assistant Commissioner appointed under sub-section (2) of that section;

15 (b) “manager”, in relation to a religious trust, means a person who, either alone or in association with any other person, administers or deals with the trust-property;

(c) "person interested", in relation to a religious trust, means—

(i) any person who has a right to worship or to perform any rite, or to attend at the performance of any worship or rite in any religious institution connected with such trust, 5 or to participate in any religious or charitable ministration made under such trust,

(ii) the founder or any descendant of the founder of such trust, and

(iii) the trustee; 10

(d) "prescribed" means prescribed by rules made under this Act;

(e) "religious trust" means any express or constructive trust existing or created for public purposes of a religious nature, whether associated with purposes of a charitable nature or not, 15 but does not include a private endowment for religious purposes in which the public are not interested;

(f) "trustee" means a person in whom either alone or in association with any other person the trust-property is vested, and includes a manager; 20

(g) "trust-property" means any movable or immovable property forming the subject matter of a religious trust.

CHAPTER II

THE COMMISSIONER AND OTHER AUTHORITIES

Appointment of Commissioner and other authorities 3. (1) The State Government may, by notification in the Official 25 Gazette, appoint a person to be the Commissioner of Religious Trusts for the State for exercising the powers conferred, and performing the duties imposed, on him by or under this Act.

(2) The State Government may also, by like notification, appoint as many deputy Commissioners or assistant Commissioners as it 30 thinks fit, and every such deputy Commissioner or assistant Commissioner shall, subject to the general superintendence and control of the Commissioner, perform his functions within such local limits as may be specified in the notification; and in the discharge of these functions, a deputy Commissioner or an assistant Commissioner 35 shall have and shall exercise the same powers as the Commissioner.

(3) A person shall not be qualified for appointment as the Commissioner under sub-section (1) unless he is, or has been, a district judge or is qualified for appointment as a Judge of a High Court.

5 4. (1) The State Government may, by notification in the Official Gazette, constitute an Advisory Board consisting of such number of members, not exceeding ten, as it thinks fit, to advise the State Government in relation to the administration of religious trusts. Advisory Board.

10 (2) The members of the Advisory Board shall be chosen from amongst one or more of the following categories of persons, namely:—

(a) members of the State Legislature and members of Parliament representing the State;

(b) persons connected with religious activities in the State;

15 (c) persons connected with social, charitable or educational activities in the State; and

(d) persons having special knowledge of administration, finance or law.

(3) The Commissioner shall be an *ex officio* member of the Advisory Board.

20 (4) The State Government shall nominate a member of the Advisory Board to be the Chairman thereof.

(5) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the functions of, the procedure to be followed in the discharge of their functions by, 25 the term of office of, and the manner of filling casual vacancies among, the members of the Advisory Board shall be such as may be prescribed.

CHAPTER III

POWERS AND DUTIES OF THE COMMISSIONER

30 5. (1) Subject to the provisions of this Act, the Commissioner may do all such things as may be reasonable and necessary to ensure that all religious trusts within his jurisdiction are properly administered and that the income thereof is duly appropriated and applied to the objects of such trusts and in accordance with the purposes 35 for which such trusts were founded or for which they exist, so far as the objects and purposes can be ascertained. General powers and duties of Commissioner.

(2) Without prejudice to the generality of the provisions of subsection (1), the powers and duties of the Commissioner shall be—

(a) to maintain a record containing full information relating to the origin, nature, extent, income and objects of all religious trusts in the State; 5

(b) to ensure that the accounts of religious trusts are properly maintained and audited;

(c) to ensure that the income from every trust property is properly applied to the objects of the religious trust and the surplus is invested in accordance with the provisions of this Act; 10

(d) to give directions, wherever necessary, for the proper administration of any religious trust in accordance with the law governing such trust and the wishes of the founder, in so far as such wishes can be ascertained;

(e) to settle schemes of management for religious trusts in accordance with the provisions of this Act; 15

(f) to perform the functions imposed on the Commissioner by or under this Act;

(g) generally do all such acts as may be necessary for the proper supervision and better administration of religious trusts. 20

Application
for registra-
tion of religi-
ous trusts.

6. (1) It shall be the duty of the trustee of every religious trust to make an application to the Commissioner for the registration of the trust.

(2) Such application shall be made in writing, in such form and manner, and accompanied by such fee, as may be prescribed and shall, as far as may be, contain the following particulars, namely:— 25

(a) the designation by which the religious trust is or shall be known or the name of the trust;

(b) the names and addresses of the trustees and the manager; 30

(c) the mode of succession to the office of the trustee;

(d) the movable and immovable properties forming the subject matter of the trust and a description thereof sufficient for their identification;

(e) the approximate value of the movable and immovable trust-property; 35

(f) the gross annual income from such property;

(g) an estimate of the expenses annually incurred in connection with such religious trust;

(h) such other particulars as may be prescribed.

(3) Every application shall be accompanied by a copy of the trust deed or, if no such deed has been executed or a copy thereof cannot be obtained, the application shall contain full particulars, as far as they are known to the applicant, of the origin, nature and object of the trust.

5 of 1908.

(4) Every application under this section shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure, 1908, for the signing and verification of pleadings.

(5) The Commissioner may require the applicant to supply such further particulars or information relating to the trust as the Commissioner may consider necessary.

15 (6) Every application for registration shall be made—

(a) in the case of a religious trust existing at the commencement of this Act, within six months from such commencement; and

20 (b) in the case of a religious trust created after such commencement, within six months from the date of the creation of the trust.

7. (1) On receipt of an application under section 6, the Commissioner shall, in the prescribed manner, make such inquiries as he thinks fit in respect of the application and the correctness of the particulars therein and may, in particular, make an inquiry in respect of all or any of the following matters, namely:—

Inquiries for registration.

(a) whether there is a trust and whether such trust is a religious trust;

(b) whether any property is the property of such trust;

30 (c) whether the whole or any substantial portion of the trust-property is situated within his jurisdiction;

(d) the names and addresses of the trustees and the manager;

(e) the mode of succession to the office of the trustee;

35 (f) the origin, nature and object of such trust;

(g) the gross average annual income and expenditure of the trust;

(h) any other matter which may be prescribed.

(2) If, on an application made to him by a person interested in a religious trust or otherwise, the Commissioner has reasons to believe that there is any religious trust which should be registered under this Act, he may make such inquiries as he thinks fit in respect of the matters mentioned in sub-section (1), but no such inquiry shall be made without giving the trustees an opportunity of being heard. 5

(3) On the completion of an inquiry under this section, the Commissioner shall record his findings with reasons therefor in respect of the matters mentioned in sub-section (1) and make an order in relation to the religious trust. 10

Entries in
register.

8. (1) The Commissioner shall maintain a register of religious trusts in such form and containing such particulars as may be prescribed.

(2) When an order for the registration of a religious trust is made under section 7, the Commissioner shall cause entries in respect thereof to be made in the register in accordance with the findings recorded under that section 15

Amendment
of register.

9. (1) Where any change occurs in any of the entries recorded in the register maintained under section 8, the trustee shall, within ninety days from the date of the occurrence of such change, send a report to the Commissioner in the prescribed form giving notice of the change. 20

(2) On receipt of a report under sub-section (1) or otherwise, the Commissioner may hold an inquiry for ascertaining whether any change has occurred in any of the entries recorded in the register in relation to a religious trust. 25

(3) If the Commissioner, after holding such an inquiry, is satisfied that a change has occurred in any of the entries recorded in the register in relation to a religious trust, he may make an order to that effect and shall cause entries in the register in respect of that trust to be amended accordingly. 30

Special provision for
religious
trusts registered under
any other
enactment.

10. (1) Where any religious trust has been registered in a State before the commencement of this Act under any other enactment relating to trusts in force in that State, the religious trust shall be deemed to have been registered under this Act as from such commencement. 35

(2) The Commissioner shall issue a notice to the trustee of such a religious trust for the purpose of recording entries relating thereto in the register maintained under section 8 and the Commissioner 40

may, after making such inquiry as he thinks fit, record his findings with reasons therefor in respect of the matters mentioned in sub-section (1) of section 7 and make an order in relation to the trust and the provisions of sections 7 and 8 shall, as far as may be, apply to such order.

11. (1) The trustee of every religious trust shall prepare every year, in such form and within such time as may be prescribed, a budget of the estimated income and expenditure of such trust for the next financial year and shall forthwith send a copy thereof to the Commissioner:

Budgets of religious trusts.

Provided that nothing in this sub-section shall apply to a religious trust having an annual income of less than five thousand rupees.

(2) The Commissioner may, after giving notice to the trustee in the prescribed manner and after considering his representation, if any, make such alterations or modifications in the budget as the Commissioner thinks fit.

(3) Nothing contained in sub-section (2) shall be deemed to authorise the Commissioner to restrict or prohibit the observance of any religious practice or the performance of any act in pursuance of any religious belief or to alter or modify any budget in a manner or to an extent inconsistent with the wishes of the founder of the trust so far as such wishes can be ascertained or with the provisions of this Act.

12. (1) The trustee of every religious trust shall keep regular accounts in such form and containing such particulars as may be prescribed.

Maintenance of accounts.

(2) The accounts kept under sub-section (1) shall be balanced each year on the 31st day of March or such other day as may be fixed by the Commissioner in the case of any particular trust, having regard to the circumstances thereof.

(3) For the purpose of ensuring the proper maintenance of accounts of any religious trust, the Commissioner may, after consulting the trustees of the religious trust, appoint a person to keep accounts for the trust:

35 Provided that no such appointment shall be made in respect of a trust having an annual income of less than twenty-five thousand rupees.

13. (1) Where the whole or any portion of the trust-property consists of money which cannot be applied immediately or at an early

Investment of trust money.

date to the purposes of the religious trust or where there is a surplus in the funds of the religious trust after meeting all lawful expenditure in connection with such trust, the trustee shall be bound, subject to any direction contained in the deed of trust, to invest the money or the surplus in the following securities and in no others, namely:— 5

(a) securities of the Central Government or State Government;

(b) stocks, shares or debentures of companies, the interest or dividend on which has been guaranteed by the Central Government or any State Government; and 10

(c) debentures or other securities for money issued by or on behalf of any local authority or corporation in exercise of the powers conferred by any Central Act or any Provincial or State Act:

Provided that the Commissioner may, by general or special order, 15 permit the trustee to invest the money or the surplus in any other manner consistent with the trust deed or purpose of the religious trust.

(2) Nothing in sub-section (1) shall affect any investment made before the commencement of this Act. 20

Audit of
accounts.

14. (1) The accounts of every religious trust having an annual income of not less than five thousand rupees shall be audited annually by an auditor to be appointed by the Commissioner, after consultation with the trustees, from among such chartered accountants within the meaning of the Chartered Accountants Act, 1949, as have 25 38 of 1949. been approved in this behalf by the State Government.

(2) The auditor shall have access to the accounts, books, vouchers, documents and other records relating to such trust in the possession or control of the trustee and may, by written notice, require the attendance before him of any person responsible for the preparation 30 of the accounts to enable him to obtain such information as he may consider necessary for the proper conduct of the audit.

(3) The auditor shall in his report specify all cases of irregular, illegal or improper expenditure or failure or omission to recover moneys or other property belonging to the religious trust or of loss 35 or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust or misapplication of trust-property or any other misconduct on the part of the trustee or any other person.

(4) Within a month of the completion of the audit, the auditor shall prepare a report on the accounts audited and shall submit the same to the Commissioner and deliver a copy thereof to the trustee concerned.

5 (5) The cost of the audit of the accounts shall be borne by the State Government.

15 (1) The Commissioner or any officer authorised by him by a general or special order shall have power— Inspection
and returns.

10 (a) to enter upon and inspect, or cause to be entered upon and inspected, any trust-property;

(b) to call for or inspect any book, records, correspondence, plans, accounts or title deed relating to a religious trust in the possession or control of the trustee:

15 Provided that in entering upon any trust-property as aforesaid, reasonable notice shall be given to the trustee and due regard shall be had to the religious practices or usages, if any, of the trust.

(2) The trustees of every religious trust shall, within such time or such extended time as may be fixed by the Commissioner, furnish to him such returns, statistics, accounts or other information as the
20 Commissioner may, from time to time, require.

16. No transfer by a trustee of any immovable property of a religious trust by way of sale, mortgage, gift or exchange or by way of lease for a term exceeding three years shall be valid, unless it is made with the previous sanction of the Commissioner: Alienation of
immovable
property.

25 Provided that no such sanction shall be given unless the Commissioner is of opinion that the transfer is necessary or beneficial to the religious trust.

17. (1) Where on an application made in this behalf by two or more persons interested in a religious trust or otherwise, the Commissioner is of opinion that any object of the religious trust has
30 ceased to exist or is incapable of achievement, he may, after issuing notice in the prescribed manner to the trustees of such trust and to such other persons as may appear to him to be interested therein, hold an inquiry into the matter and if after such inquiry, the Commissioner is satisfied that it is necessary so to do, he may, by order,
35 direct that the property or income of the trust or so much of the property or income thereof as was previously expended on or applied to that object shall be applied to any other object which shall be similar or as nearly as practicable similar to the original object. Power to
determine
the object to
which trust
property
shall be ap-
plied where
the object
has ceased
to exist or
is incapable
of achieve-
ment

(2) In making an order under this section in relation to a religious trust, the Commissioner shall have due regard to the original intention of the founder of the trust or the object for which the religious trust was created and the wishes of the trustees or persons interested in the trust and no order shall be made directing the application 5 of the trust-property or any income thereof to any purpose other than a religious purpose recognised by the religion to which the trust belongs.

Power of Commissioner to settle schemes for proper administration of religious trusts.

18. (1) Where on an application made in this behalf by two or more persons interested in a religious trust or otherwise, the Commissioner is of opinion that, in the interest of the proper administration of the religious trust, a scheme should be settled for it, the Commissioner may, after issuing notice in the prescribed manner to the trustee of such trust and to such other persons as may appear to the Commissioner to be interested therein, hold an inquiry into the 15 matter in the prescribed manner and if, after such inquiry, the Commissioner is satisfied that it is necessary or desirable so to do, he may, by order, settle a scheme for the administration of the religious trust.

(2) The Commissioner may also, in like manner and subject to the like conditions, modify any scheme settled under this section or 20 under any other law or substitute another scheme in its stead.

(3) Every scheme settled, modified or substituted under this section shall be in accordance with the law governing the trust and shall not be contrary to the wishes of the founder of the trust, so far as such wishes can be ascertained. 25

Power of Commissioner when trusts are mismanaged.

19. (1) Where on receipt of any report of the auditor in respect of a religious trust or on an application made in this behalf by two or more persons interested in the trust or otherwise, the Commissioner has reasons to believe that the affairs of the religious trusts are being mismanaged or that the trustee is neglecting or failing to 30 discharge the obligations imposed on him by the deed of trust, the Commissioner may, after issuing notice in the prescribed manner to the trustee of such trust and to such other persons as may appear to the Commissioner to be interested therein, hold an inquiry into the matter in such manner as may be prescribed. 35

(2) If after holding such an inquiry, the Commissioner is satisfied—

(a) that the trustee has neglected or failed to discharge the obligations imposed on him by the deed of trust or that the affairs of the religious trusts have not been managed in 40

accordance with the terms of the trust, or have otherwise been mismanaged, or

(b) that any trustee is guilty of mis-appropriation of trust property,

5 the Commissioner may, without prejudice to any other action that may be taken against the trustee, make an order giving directions to the trustee for the discharge of the obligations imposed on him by the deed of trust or for the proper management of the trust, or removing the trustee from his office, or directing the trustee to pay
10 to the trust fund such amount not exceeding the amount of loss caused to the trust as the Commissioner thinks fit.

20. Notwithstanding anything contained in the deed of a religious trust, the Commissioner may, after issuing notice in the prescribed manner to the trustee of such trust and holding such inquiry as he
15 thinks fit, by order remove the trustee from his office, if the Commissioner is satisfied that the trustee—

Power to remove trustees in certain other circumstances.

(a) has been convicted more than once of an offence punishable under this Act; or

(b) has been convicted of an offence of criminal breach of
20 trust or any other offence involving moral turpitude.

21. (1) When there is a vacancy in the office of trustee of a religious trust and there is no one competent to be appointed as trustee under the terms of the deed of such trust or where there is a *bona fide* dispute as to the right of any person to act as trustee or where there
25 is a vacancy caused by the removal of the trustee under section 19 or section 20, the Commissioner may, after issuing notice in the prescribed manner to such person as appears to him to be interested in the trust and holding such inquiry as he thinks fit, appoint a new trustee to fill the vacancy, wherever possible, in accordance with the
30 terms of the trust deed or custom or usage relating to such matter.

Power of appoint trustee when vacancy occurs.

(2) In appointing a trustee under sub-section (1), the Commissioner shall, as far as possible, select a person of the religious denomination or section to which the trust belongs.

(3) When a trustee has been removed from his office by an order
35 made under section 19 or section 20, the Commissioner may direct the trustee to deliver possession of trust-property to the new trustee or where the new trustee has not been appointed, to any person authorised by the Commissioner in this behalf pending such appointment.

CHAPTER IV

MISCELLANEOUS

Procedure
and powers
at inquiries
under the
Act.

22. (1) Subject to any rules that may be made under this Act, every inquiry made thereunder shall be held, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits. 5

5 of 1908.

(2) The Commissioner shall, for the purpose of holding an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:— 10

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) the reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office; 15
- (e) issuing any commission for the examination of witnesses;
- (f) any other matter which may be prescribed.

Appeals.

23. An appeal shall lie to the High Court from every order of the Commissioner made under this Act within a period of sixty days from the date of the order: 20

Provided that the High Court may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

Trustee to
carry out
orders of
Com-
missioner
and execu-
tion of such
orders.

24. (1) Every trustee shall carry out all directions which may from time to time be issued to him by the Commissioner under any of the provisions of this Act. 25

(2) An order made under this Act shall, on an application made in this behalf by the Commissioner, be enforced by a civil court having local jurisdiction in the same manner as a decree of such court. 30

Offences and
penalties.

25. (1) If any person—

(a) fails to apply for the registration of a religious trust within the time specified in sub-section (6) of section 6; or

(b) furnishes or causes to be furnished to the Commissioner any return, statistics, accounts or other information which he knows, or has reasons to believe, to be false; or 35

(c) obstructs the Commissioner or any officer in the exercise of his power under clause (a) or clause (b) of sub-section (1) of section 15;

he shall be punishable with fine which may extend to one thousand 5 rupees.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except upon a complaint in writing made by the Commissioner.

(3) No court inferior to that of a presidency magistrate or a 10 magistrate of the first class shall try an offence punishable under this Act.

26. (1) For the purpose of defraying the expenses in connection with the administration of this Act, the trustee of every religious trust registered under this Act shall pay annually to the State 15 Government, in such manner and within such time as may be prescribed, such contributions by way of fees, not exceeding three per cent. of its gross annual income, as the State Government may, from time to time, determine. Contributions.

(2) If any amount payable as contribution under sub-section 20 (1) is not paid within the time prescribed, the Commissioner may issue a certificate for the amount due to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

27. (1) The Commissioner may, on an application made to him 25 in this behalf by any person, furnish to the applicant copies of any extract from the register maintained under section 8, on payment of such fee as may be prescribed and subject to such conditions as may, from time to time, be determined by the Commissioner. Furnishing of copies of extracts from register.

(2) Such copies may be certified in the manner provided in 30 of 1872. section 76 of the Indian Evidence Act, 1872.

28. Save as otherwise expressly provided in this Act, every order made by the Commissioner shall be final and shall not be 35 called in question in any suit, application or proceeding. Finality of orders.

29. (1) Notwithstanding anything contained in any other law for 35 the time being in force, no civil court shall entertain any suit or proceeding in so far as it relates to any question or matter which the Commissioner is empowered by this Act to decide. Jurisdiction of civil courts barred in respect of certain matters.

(2) No civil court shall entertain a suit for the enforcement of a right on behalf of a religious trust unless such trust has been 40 registered under this Act.

(3) The provisions of sub-section (2) shall also apply to a claim of set off or other proceeding to enforce a right on behalf of a religious trust which has not been registered.

Notice of certain suits to be given to the Commissioner.

30. (1) In every suit or proceeding (except in suits instituted by a trustee for the recovery of arrears of rent and proceedings in execution of decrees passed in such suits) in respect of any religious trust or property belonging to such trust, whether instituted by a trustee or by any other person, the court shall issue a notice of the institution thereof to the Commissioner. 5

(2) The Commissioner may apply to the court in which any such suit or proceeding as is referred to in sub-section (1) is pending, to be added as a party to the suit or proceeding and shall thereupon be added as a party thereto. 10

(3) If the notice required under sub-section (1) to be issued to the Commissioner in respect of any suit or proceeding is not issued, the decree or order passed in such suit or proceeding shall, if the Commissioner makes an application to the court in this behalf, be set aside. 15

Protection of action taken in good faith.

31. No suit, prosecution or other legal proceeding shall lie against the State Government or the Commissioner or any deputy or assistant Commissioner or any officer authorised by the Commissioner in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder. 20

Commissioner, etc., to be public servants.

32. The Commissioner and all deputy Commissioners and assistant Commissioners shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 25

45 of 1860.

Power to give directions.

33. The State Government may, from time to time, give to the Commissioner in writing such general or special directions on questions of policy as it thinks fit, and the Commissioner shall, in the performance of his functions under this Act, comply with such directions. 30

Act not to apply to certain classes of trusts.

34. The provisions of this Act shall not apply to—

(a) any Sikh Gurdwara to which the Sikh Gurdwaras Act, 1925, applies; or

Punjab Act VIII of 192

35

(b) the Durgah Khawaja Saheb, Ajmer, to which the Durgah Khawaja Saheb Act, 1955, applies or to any other wakf as defined in the Wakf Act, 1954, or in any Provincial or State Act relating to wakfs in any State; or

36 of 1955

29 of 1954

(c) any religious trust existing or created for the benefit of Christians, Jews or Parsis or any section thereof. 40

35. The State Government may, by notification in the Official Gazette, exempt any religious trust or class of religious trusts to which any special enactment applies from the operation of all or any of the provisions of this Act. Power to exempt.

5 36. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

10 (a) the functions of, the procedure to be followed by, the number and terms of office of, and the manner of filling casual vacancies among, the members of, the Advisory Board;

(b) the form and manner of making application for the registration of religious trust and the particulars it may contain;

15 (c) service of notices and orders under this Act;

(d) the procedure to be followed by the Commissioner in holding any inquiry under this Act and the powers of a civil court which may be vested in the Commissioner;

20 (e) the levy and collection of fees in respect of any application under this Act for registration of religious trusts and supply of copies of extracts from the register maintained under section 8;

(f) the form of the register of religious trusts maintained under section 8 and particulars it may contain;

25 (g) the form in which and the time within which the budget in respect of a religious trust may be prepared;

(h) the form and manner in which accounts of a religious trust may be maintained and the particulars it may contain;

30 (i) the time at which and the manner in which the accounts of a religious trust may be audited;

(j) the form and manner in which any report, return, statistics or other information may be furnished to the Commissioner by any trustee under this Act;

35 (k) the manner in which, and the time within which, contribution is to be paid by the trustee of a religious trust;

(l) the form and manner in which copies of extracts from the register of religious trusts may be furnished;

(m) any other matter which is to be, or may be, prescribed

Repeal.**37. The following enactments, namely:—**

- | | |
|---|-------------|
| (i) The Religious Endowments Act, 1863; | 20 of 1863. |
| (ii) The Charitable Endowments Act, 1890; | 6 of 1890. |
| (iii) The Charitable and Religious Trusts Act, 1920; | 14 of 1920. |
| (iv) Section 92 of the Code of Civil Procedure, 1908; | 5 of 1908. |

shall not apply to any religious trust to which this Act applies.

STATEMENT OF OBJECTS AND REASONS

The problem of ensuring better supervision of public religious trusts has been engaging the attention of Government for some time past. There are no doubt some Provincial or State Acts in regard to this matter but it is considered desirable to have a comprehensive Central law on the subject.

2. As the law would be administered by State Governments and as conditions vary from State to State, it is not proposed to make any detailed provisions regarding the administrative machinery. The Bill merely contemplates the appointment of a Commissioner and certain other officers by the State Governments. It also seeks to provide for the constitution of an Advisory Board but the State Governments have been empowered to make rules regulating the composition and functions of the Advisory Board.

3. The Bill seeks to deal with certain basic points such as registration of trusts, maintenance of proper accounts, submission of reports and investment of funds which are essential for the proper administration of trusts. In order to ensure a proper and efficient management of the trusts, it is proposed to vest the Commissioner with certain necessary powers. He should have powers to scrutinise the budget of every religious trust having an annual income of not less than Rs. 5,000 and to appoint auditors for the audit of every such trust. He should also be empowered to appoint an accountant in respect of every religious trust having an annual income of not less than Rs. 25,000. It would also be necessary to vest him with powers to inspect trust property and call for returns and reports from trustees. When the object of any trust fails, the Commissioner should have power to apply the doctrine of *cypres*. When any trust is mismanaged, he should be vested with powers to settle a scheme for the proper administration of the trust and also to remove a trustee and appoint a new trustee under certain circumstances. It is also proposed that the trustees should be required to obtain the sanction of the Commissioner for alienation of immovable property forming part of any trust. It would also be necessary to make a specific provision in the Bill that an appeal would lie to the High Court from every order of the Commissioner and it is considered that this would be a sufficient safeguard against any arbitrary exercise of powers by the Commissioner. It is also proposed that every trust

should pay such contribution by way of fees, not exceeding three per cent. of its gross annual income, as the State Government may from time to time determine.

4. The present Bill seeks to achieve the above objects.

NEW DELHI;

A. K. SEN.

The 10th March, 1960.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 36 of the Bill empowers the State Government to make rules to carry out the purposes of the Act. The matters in respect of which such rules may be made have been specified therein. They relate, *inter alia*, to the form and manner of making applications for registration of religious trusts, service of notices and orders, the levy and collection of fees in respect of applications, the form of the register, the form and manner in which accounts of a religious trust may be prepared and the audit of such accounts, the form and manner in which reports and returns have to be submitted and various other incidental matters. They also relate to the functions of the Advisory Board and the procedure to be followed by it. All these matters are of a routine or administrative character.

2. The delegation of legislative power is thus of a normal character.

M. N. KAUL,
Secretary.

